many instances, it has also imposed on complying firms enormous burdens, which raise business costs and consumer prices.

Increasing competition from world markets and the need to maintain and improve the standard of living of a growing population require constant improvement of the American market system. For this reason I have asked the Congress to legislate fundamental changes in the laws regulating our railroads, airlines, and trucking firms. The new amendments will free these companies to respond more flexibility to market conditions. I have also urged deregulation of the price of natural gas and sought essential pricing flexibility for the oil and electric utilities industries. We will continue to improve all essential protection for public health and safety, trying at the same time not to increase unnecessarily the cost to the public. My object is to achieve a better combination of market competition and responsible Government regulation. The programs I have advanced in recent months have sought such a balance, and I will continue this course in 1976.

Striking a new regulatory balance is likely to entail some economic and social costs during a period of transition, and changes must therefore be phased in carefully. In the long run, however, a revitalized market system will bring significant benefits to the public, including lower prices.

While our policies focus primarily on the economy of the United States, we recognize that the range of our interests does not stop at our shores. The other major countries of the world are also recovering from the most serious recession they have experienced since the 1930s. Their first economic priority, like ours, is to put their economies on a sustainable, noninflationary growth path. Success in this endeavor, more than anything else, will help developed and developing countries alike achieve higher standards of living.

In recent years the economies of most nations suffered from extraordinarily high inflation rates, due in large part to the quintupling of the world price for oil, and then moved into a deep recession. The simultaneity of this experience demonstrated once again the strong interdependence of the world's economies. Individual countries have become progressively more dependent on each other as a freer flow of goods, services, and capital has fostered greater prosperity throughout the world. Because of this growing interdependence, however, domestic policy objectives cannot be achieved efficiently unless we also take account of economic changes and policy goals in other countries.

In recognition of our growing interdependence, I have consulted closely with the heads of other governments, individually and jointly. At the Economic Summit at Rambouillet last November, I met with the heads of government of five other major industrial countries. There we laid the foundation for closer understanding and consultation on economic policies. During 1975 we also began discussions on international cooperation with both the developed and the less developed countries. This dialogue will assure a better mutual understanding of our problems and aspirations. Finally, I have agreed with my foreign colleagues that, in order to create the proper conditions for lasting and stable growth, we must take important, cooperative steps in monetary matters, trade, and energy. We have directed our trade officials to seek an early conclusion to the continuing negotiations on liberalization of trade. This month in Jamaica we reached significant agreements on strengthening the international monetary system and providing increased support for the developing countries. We have also begun to cooperate more closely with oil-consuming countries in the effort to become less dependent on imported energy. I intend to consolidate and build upon this progress in 1976.

Of central concern both here and abroad is U.S. energy policy. Without a vigorous and growing industry supplying domestic energy, much of our industrial development in the next 10 years will be uncertain. And unless we can reduce our dependency on Middle East oil, we will not have a sound basis for international cooperation in the development of new fossil fuel and other energy sources.

As an initial step toward greater self-sufficiency, I signed the Energy Policy and Conservation Act in December 1975. I concluded that this act, though deficient in some respects, did provide a vehicle for moving us toward our energy goals. With this mechanism the price of petroleum can be allowed to rise to promote domestic supply and to restrain consumption. At the end of 40 months, under the act, I may remove price controls altogether, and I will utilize the provisions of the act to move toward a free market in petroleum as quickly as is possible and consistent with our larger economic goals. The act offers flexibility, which I have already used to start dismantling price controls and allocation arrangements in fuel markets where no shortages exist. The legislation also establishes a national strategic petroleum reserve which will make our supply of energy secure and give other nations less inducement to impose an oil embargo.

Measures crucial to our energy future still remain to be enacted, however. Natural gas deregulation is now the most pressing of the issues on energy before the Congress: shortages grow year by year, while the country waits for more testimony on supply and demand, or waits for extremely expensive new synthetic gas plants to replace the natural gas production choked off by price controls. I urge the Congress to make deregulation of new natural gas one of its first objectives in 1976. The legislation I have proposed in order to assure adequate supplies of fuel for nuclear power plants is also critical. If we are to improve our energy situation, these measures are necessary. They will also reinforce our efforts to remove unnecessary and deleterious Government interference in economic activities where the consumer is adequately protected by market forces.

A year ago I said, "The year 1975 must be the one in which we face our economic problems and start the course toward real solutions." I am pleased with the beginning we have made. The course is a long one, but its benefits for all Americans make the journey worthwhile. The year 1976 must be one in which we will continue our progress toward a better life for all Americans.

GERALD R. FORD.

JANUARY 26, 1976.

MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following message from the Senate:

JANUARY 22, 1976.

The Senate having proceeded to reconsider the bill (S. 2350) entitled "An Act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council", returned by the President of the United States with his objections to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

TO AMEND NATIONAL SECURITY ACT OF 1947, AS AMENDED, TO INCLUDE SECRETARY OF THE TREASURY AS MEMBER OF NATIONAL SECURITY COUNCIL—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (S. DOC. NO. 145)

The SPEAKER laid before the House the following veto message from the President of the United States:

The message and accompanying bill referred to the Committee on Armed Services.

To the Senate of the United States:

I return without my approval S. 2350, a bill "To amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council."

The National Security Council is one of the most important organizations in the Executive Office of the President. The Council's function, under the law, is to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The President, the Vice President, the Secretary of State, and the Secretary of Defense are the statutory members of the Council. In addition, the President may, under the law, appoint by and with the advice and consent of the Senate the Secretaries and Under Secretaries of other executive departments and of the military departments to serve at his pleasure. No President has ever exercised this latter authority.

In my judgment, enactment of S. 2350 is not necessary. From its establishment in 1947, each President has invited from time to time additional officers to participate in National Security Council deliberations when matters specifically relating to their responsibilities have been considered. In line with this practice, the President invites the Secretary of the Treasury to participate in Council affairs when issues of substantial interest to the Department of the Treasury are involved. Thus, existing arrangements provide for

adequate participation of the Secretary of the Treasury in National Security Council matters.

Furthermore, additional mechanisms exist to assure that the President receives advice which takes into account the proper integration and coordination of domestic and international economic policy with foreign policy and national security objectives. Both the Economic Policy Board and the Council for International Economic Policy provide the President with high level advice on economic matters. The Secretary of the Treasury is the Chairman of these two bodies on which the Secretary of State also serves.

I believe that S. 2350 is undesirable as well as unnecessary. The proper concerns of the National Security Council extend substantially beyond the statutory responsibilities and focus of the Secretary of the Treasury. Most issues that come before the Council on a regular basis do not have significant economic and monetary implications.

Moreover, a large number of executive departments and agencies have key responsibilities for programs affecting international economic policy. From time to time these programs influence importantly our foreign policy and national security decisions. The Treasury Department does not and could not represent all those interests. Extending full statutory membership on the National Security Council to the Secretary of the Treasury would not achieve the purpose of bringing to bear on decisions the full range of international economic considerations.

For these several reasons, I am concerned that increasing the statutory membership of the Council might well diminish its flexibility and usefulness as a most important advisory mechanism for the President.

In sum, S. 2350 is unnecessary, since adequate arrangements for providing advice to the President on the integration of economic and foreign policy already exist, and it is undesirable because the proposed arrangement is inconsistent with the purposes of the National Security Council and would lessen the current and desirable flexibility of the President in arranging for advice on the broad spectrum of international and national security policy matters.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1975.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the message, together with the accompanying bill, be referred to the Committee on Armed Services.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SPECIAL ORDER ON SELECT COMMITTEE'S RECEIVING TOP-SECRET INFORMATION

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I merely wish to advise the Members of the House that I will be taking a special order at the conclusion of House business today for the purpose of discussing and setting forth in the RECORD the exchange of correspondence and the agreements with the executive branch which resulted in the House select committee's receiving confidential, secret, and top-secret information. In my opinion, the agreements—and the procedures adopted by the committee which resulted in our receipt of such classified material remains binding on the committee.

I want to call this to the attention of the Members of the House so that they can decide what, if any, action should be taken with respect to the proposed publication of this material. I will proceed with this special order at the conclusion of the House business today.

EXPRESSING APPRECIATION AND ADMIRATION TO CLARENCE M. MITCHELL, JR.

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 976) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 976

Whereas Clarence M. Mitchell, Jr., of Maryland, has labored tirelessly for more than four decades for the right of all Americans to share equally the blessings of the Constitution;

Whereas since becoming director of the Washington Bureau of the National Association for the Advancement of Colored People in 1950 his efforts have been instrumental in achieving passage of every major legislative act designed to guarantee equality under the law for all citizens of race;

Whereas his patience, dignity, courage, and integrity have resulted in remarkable effectiveness in his work and won the respect of his fellow Americans;

Whereas his abiding faith in the Constitutional process and rejection of racism are manifestations of the democratic system at its finest;

Whereas hundreds of his friends will gather in Washington, D.C. on January 27, 1976 to pay tribute to him: Now, therefore, be it

Resolved, That it is the sense of the House that—

(1) sincere appreciation and admiration be expressed to Clarence M. Mitchell, Jr. on behalf of the people of the United States of America; and

(2) as Clarence M. Mitchell, Jr., carries forward his work for social justice among his fellow citizens, he continues to prosper in good health.

Mr. RHODES. Mr. Speaker, it is indeed a great personal honor for me to join with my good friend, the majority leader, in sponsoring a resolution to express the appreciation and admiration which this body feels toward Clarence M. Mitchell, Jr., of the State of Maryland.

Clarence Mitchell has been a leader in the field of civil rights for many years, long before the public conscience realized fully the injustices which black Americans were fored to endure.

It was largely through the efforts of individuals such as Clarence Mitchell that Congress finally made its critically important commitment to the proposition that race has no place in American life, that full equality is more than a cliche; it is the rockbed upon which American society is built.

It is entirely appropriate that he be honored—for his courage, conviction, and dignity—in this bicentennial year when we are rediscovering and rearticulating the wide range of liberties which we hold so dear.

I salute Clarence Mitchell, Jr., for all the great work he has done in the past, as well as for the equally important work he will do in the years ahead.

Mr. BUCHANAN. Mr. Speaker, I join with the distinguished majority and minority leaders in support of this resolution.

Clarence Mitchell is one of the real statesmen of our time. For many years as a civil rights leader and more recently as a U.S. delegate to the United Nations, he has rendered distinguished service to our country. In both instances he has shown wisdom and courage in the pursuit of human rights. Recent American history is marked by our progress as a society toward equality of opportunity for all Americans. These advances bear the imprint of Clarence Mitchell's leadership.

Because of his efforts, the United States is a better place for all its citizens.

His recent service as part of the U.S. delegation has helped to advance our efforts toward the protection of human rights of all peoples throughout the world.

His remarks in the United Nations have represented reason and responsibility in a body often characterized by demagoguery. His reputation as a man of integrity and dignity added weight to those remarks, credibility to our Nation's identification with the rights and aspirations of the world's repressed, and stature to our delegation.

Since becoming director of the Washington Bureau of the National Association for the Advancement of Colored People in 1950, he has striven with seemingly tireless energy in support of the protection of the rights of all Americans. His reasoned approaches to the means by which these rights can be protected and enhanced can be found in bills passed by this body and enacted into law.

I join with my colleagues and many millions of other Americans in expressing my appreciation for the leadership and courage of Clarence Mitchell.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the subject of the resolution to express appreciation and admiration to Clarence M. Mitchell, Jr.

The SPEAKER. Is there objection to

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

Vol. 122 WASHINGTON, THURSDAY, JANUARY 22, 1976 No. 4

House of Representatives

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. O'NEILL) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
January 22, 1976.

I hereby designate the Honorable THOMAS P. O'NEILL, JR., to act as Speaker pro tempore today.

CARL ALBERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God is love and he who abides in love abides in God and God abides in him.—I John 4: 16.

Our Father God, grant that during the days of this year we may be filled with Thy love, the love that never lets us go and never lets us down, but always seeks to keep us on Thy way, doing Thy will, and obeying Thy word.

We confess to Thee the sins we have committed, the mistakes we have made, and the faults we have developed. We are not too proud of the record of our lives, nor the way we have handled ourselves in times of trouble, nor our response to the needs of our people. Forgive us, O God, for our blindness of heart and our stubbornness of spirit.

Humbly now we open our lives to receive the miracle of Thy forgiveness and Thy love. Send us out into this new day restored to Thee, redeemed by Thy grace and renewed by Thy spirit, ready for the work that needs to be done.

In the spirit of the Master, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

A NATIONAL DAY OF PRAYER FOR THE MISSING IN SOUTHEAST ASIA

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I would like to call to my colleagues' attention a proclamation issued by President Ford yesterday which calls for a national day of prayer this coming Sunday, January 25, for the American military and civilian personnel still unaccounted for in Southeast Asia. I commend the President for this action and for calling attention to the unknown fate of our MIA's.

As chairman of the House Select Committee on Missing Persons in Southeast Asia, I am very much aware of the enormous task we have ahead of us in achieving a full accounting and securing the return of remains of known dead. However, we feel that our meetings in Paris, Hanoi, and Vientiane have been fruitful and have set us on the right course to gain the information we desire. We shall continue to press ahead in the months to come.

I urge my colleagues to join in the national day of prayer for our MIA's this Sunday and to continue their individual efforts on behalf of the missing.

INTRODUCTION OF THE FOREIGN PARAMILITARY INTERVENTION ACT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, on December 12, 1975, CIA Director William Colby, in testimony before the House Intelligence Committee, acknowledged the paramilitary nature of his Agency's activities in Angola. Subsequently, press reports have indicated that our involvement is in the nature of civilian air spotters and ground advisers. Yet, had these CIA personnel been members of the U.S. military, rather than civilians, the President, under section 4(a)(1) of the war powers resolution, would have been obligated to report that fact to the Congress, and if the Congress failed to authorize those activities within 90 days, those military advisers would have had to have been withdrawn.

Many in Congress will no doubt feel that a modest paramilitary operation is justified * * * that the risks are not as great as they might appear at first blush * * * that the deepwater ports of Angola and the protection of shipping lanes from the Persian Gulf are important enough to warrant greater involvement by the United States. Others will differ.

Whether or not one favors or opposes involvement in Angola, what is important is that Congress exercise its constitutional mandate on matters involving war and peace. It is important that Congress, after carefully considering the risks, either authorize or stop our involvement in Angola and in future paramilitary activities.

Therefore, I am today introducing the Foreign Paramilitary Intervention Act which will amend the war powers resolution by making it applicable in cases where agents or employees of the United States are engaged in hostilities in a foreign country or are advising foreign military forces engaged in hostilities.

NEW YEAR'S EVE SPEECH BY DR. BILLY GRAHAM

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, millions of Americans listened to the famed and beloved evangelist, Dr. Billy Graham, on nationwide television this past New Year's Eve. Several of the Members of Congress have referred to this excellent and timely religious message subsequent to our return to Washington.

In order that each Member of Congress and others might have the chance to read this message from Dr. Billy Graham, I am sharing this in the CONGRESSIONAL RECORD and it will appear in full in the Extensions of Remarks today.

His message was entitled "Our Bicentennial."

PRIVILEGES OF THE HOUSE—SUBPENA IN CASE OF BOSTON PNEUMATICS, INC. AGAINST INGERSOLL-RAND CO.

Mr. McDADE. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore (Mr. O'NEILL). The gentleman will state it.

Mr. McDADE. Mr. Speaker, I have been subpenaed by the U.S. District Court for the District of Columbia to appear at the office of Stassen, Kostos & Mason, 450 Federal Bar Building West, Washington, D.C., on January 26, 1976, at 10 a.m., to testify on behalf of Boston Pneumatics, Inc., at the taking of a deposition in the case of Boston Pneumatics, Inc. against Ingersoll-Rand Co., civil action No. 72–1729, now pending in the U.S. District Court for the Eastern District of Pennsylvania.

Under the precedents of the House, I am unable to comply with this subpena without the consent of the House, the privileges of the House being involved. I, therefore, submit the matter for the consideration of this body.

Mr. Speaker, I send the subpena to the desk.

The SPEAKER pro tempore. The Clerk will read the subpena.

The Clerk read as follows:

[In the U.S. District Court for the District of Columbia, Civil Action File, U.S.D.C. Eastern District of Pennsylvania, 72–1729; FS 76–0013.]

Boston Pneumatics, Inc. *vs.* Ingersoll-Rand Company.

To Joseph M. McDade, United States House of Representatives, 2202 Rayburn House Building, Washington, D.C.

You are commanded to appear at the office of Stassen Kostos and Mason, 450 Federal Bar Build ng West in the city of Washington on the 26th day January, 1976, at 10:00 o'clock A.M. to testify on behalf of Plaintiff, Boston Pneumatics, Inc. at the taking of a deposition in the above entitled action pending in the United States District Court for the Eastern District of Pennsylvania and bring with you any written correspondence between your office and the Ingersoll-Rand Company and between your office and the General Services Administration, regarding allegations of violations of the Buy-American Act by Boston Pneumatics during the period around July 1969 to July 1970.

Dated Janua y 16, 1976.

JAMES F. DAVEY,
Clerk.

By MARY B. DEAVERS,
Deputy Clerk.

Any subpoenaed organization not a party to this suit is hereby admonished pursuant to Rule 30(b)(6), Federal Rules of Civil Procedure, to file a designation with the court specifying one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and shall set forth for each person designated, the matters on which he will testify or produce documents or things. The persons so designated shall testify as to matters known or reasonably available to the organization.

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 971) and ask for its immediate consideration.

The Clerk read the resolution as follows

H. RES. 971

Whereas Representative Joseph M. McDade, a Member of this House, has been served with a subpena issued by the United States District Court for the District of Columbia to appear at the office of Stassen, Kostos and Mason, 450 Federal Bar Building West, Washington, D.C., on the 26th of January, 1976, at 10:00 A.M. to testify on behalf of Boston Pneumatics, Inc., at the taking of a deposition in the case of Boston Pneumatics, Inc. against Ingersoll-Rand Company, civil action number 72–1729, now pending in the United States District Court for the Eastern District of Pennsylvania; and

Whereas by the privileges of the House no Member is authorized to appear and testify but by the order of the House: Therefore, be it

Resolved, That Representative Joseph M. McDade is authorized to appear in response to the subpena of the United States District Court for the District of Columbia to testify at the taking of deposition in the case of Boston Pneumatics, Inc. against Ingersoll-Rand Company at such time as when the House is not sitting in session; and be it further

Resolved, That as a respectful answer to the subpena a copy of this resolution be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, JANUARY 23, 1976, TO FILE CONFERENCE REPORT ON S. 2718

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow, January 23, 1976, to file a conference report on the Senate bill S. 2718.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AMENDMENTS OF 1975

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 967 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 967

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10807) to amend the Motor Vehicle Information and Cost Savings Act to authorize appropriations, to provide authority for enforcing prohibitions against motor vehicle odometer tampering, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 10807, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1518, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 10807 as passed by the House.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 15 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 967 makes in order consideration of H.R. 10807, a bill to amend the Motor Vehicle Information and Cost Savings Act.

This is an open rule providing for 1 hour of general debate.

I would like to commend our distinguished colleague from California (Mr. VAN DEERLIN), chairman of the Subcommittee on Consumer Protection and Finance, for the outstanding work he and his colleagues have done in bringing this legislation before us.

H.R. 10807 will strengthen existing law prohibiting odometer tampering. Many States—including Massachusetts—have enacted very tough laws in this area. But Federal action is essential because so large a segment of the used car market involves interstate commerce. Once a car crosses State lines in the wholesale market, the State laws collapse. Even if the buyer and seller both live in States with strict laws, Federal action is necessary to protect buyers in interstate sales.

This legislation will also be of invaluable aid to consumers in making informed decisions in car buying by requiring that information be available on the comparative crashworthiness of automobiles.

House Resolution 967 will discharge the Committee on Interstate and Foreign Commerce from further consideration of S. 1518 and provides that it shall be in order to move to strike all after the enacting clause of S. 1518 and insert in lieu thereof the provisions of H.R. 10807 as passed by the House.

Mr. Speaker, I urge adoption of the rule so that the House may proceed to consider this legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker as previously explained, this rule provides for 1 hour of general debate on H.R. 10807, the Motor Vehicle Information and Cost Savings Act Amendments of 1975, and that the bill shall be open to all germane amendments.

The purpose of this bill is to authorize funds to carry out the Motor Vehicle Information and Cost Savings Act for fiscal years 1976 and 1977, and to amend the act to provide authority for enforcing prohibitions against motor vehicle odometer tampering.

The estimated cost of this bill is

94TH CONGRESS
2D SESSION

H. R. 11476

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1976

Mr. SCHEUER introduced the following bill; which was referred to the Committee on International Relations

A BILL

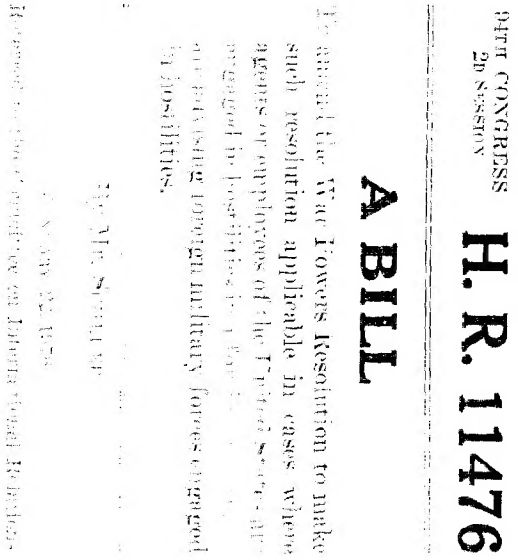
To amend the War Powers Resolution to make such resolution applicable in cases where agents or employees of the United States are engaged in hostilities in a foreign country or are advising foreign military forces engaged in hostilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Paramilitary Intervention Act".

SEC. 2. Section 8 of the War Powers Resolution is amended by adding at the end thereof the following new subsection:

"(c) Any person in any foreign country who is employed by, under contract to, or under the direction of any

department or agency of the United States Government and who is either (1) actively engaged in hostilities in such foreign country, or (2) advising any regular or irregular military forces engaged in hostilities in such foreign country, shall be deemed to be a member of the United States Armed Forces for the purposes of this joint resolution."



94TH CONGRESS
2D SESSION

H. R. 11476

A BILL

To amend the War Powers Resolution to make such resolution applicable in cases where

by hostilities

NATIONAL SECURITY COUNCIL MEMBERSHIP FOR THE SECRETARY OF THE TREASURY—VETO

The PRESIDING OFFICER (Mr. STAFFORD). Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now proceed to the consideration of the President's veto message on S. 2350, which the clerk will report.

The legislative clerk read as follows:

Veto message on S. 2350, a bill to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

(The text of the President's veto message is printed on page S2 of the CONGRESSIONAL RECORD of January 19, 1976.)

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I rise in support of the President's veto of S. 2350, a bill to amend the National Security Act of 1947.

I think we can all understand that there is some merit in having the Secretary of the Treasury serve on the National Security Council. Certainly the position of the United States in the world economy, the integrity of the dollar, and our trade balances are all matters that are involved in national security, because national security does not involve military and political security alone, but involves economic security as well.

But I think in this instance the point the President has made is well taken, that he is denied some degree of flexibility which he feels he must have so far as the National Security Council is concerned.

The National Security Council in its particular responsibilities, by definition, does not frequently deal with economic and financial matters; it deals primarily with military and political matters, and it has been the custom and the practice to invite the Secretary of the Treasury to sit on deliberations of the Council when financial or economic matters are involved.

I think we must consider, then, the peculiar function of the National Security Council as being primarily oriented toward military matters and secondarily political matters, and note that there is in existence the Council on International Economic Policy, over which the Secretary of the Treasury presides; and that is the entity that is responsible for international economic planning and economic concern. The Secretary of the Treasury quite properly does preside over that council.

It does not seem to me that we should dilute the Secretary of the Treasury in terms of his ability to exercise his many responsibilities by adding on to the Secretary of the Treasury yet another responsibility, which is service on the National Security Council, when matters that come within the province of his office are not frequently or often taken up in the National Security Council. I think it suffices that we have a Council on International Economic Planning, of which the Secretary of the Treasury is very much a part.

I might note that if we mandated by statute the membership of the Secretary of the Treasury on the National Security Council, we perhaps might have to take it a step further and mandadte membership on the Council on the part of others who are concerned with international economic matters. The Secretary of Agriculture, for example, is very much concerned about the international economy, because he is in the business of trying to promote markets for the export of American food and fiber abroad. We could go on, perhaps, and note that the heads of other executive departments could have some interest in what goes on in the National Security Council. But that would be unwieldy, and I think the more we do this kind of thing, the more it reduces the flexibility we give the President.

Certainly the National Security Council does not operate in a vacuum. It does call in, from time to time, people who are involved in various concerns that might be under consideration or discussion in the Council. I think this flexibility has worked out quite well, and I see no point in mandating the membership of the Secretary of the Treasury on the National Security Council when, if the President should desire, he can sit in on the National Security Council when matters within the purview of his responsibility are under consideration.

I hope the Senate will sustain the President's veto.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that during this debate, Mr. David Raymond and Mr. Paul Donnelly of my staff be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, I have held two positions on the National Security Council in the past. One was as Secretary of the Air Force. It was wrong that the three Secretaries of the services should have been on the National Security Council, because that made them equal with the Secretary of Defense; so we were rightfully removed 2 years after the Council had started functioning in 1947.

Later I was chairman of the National Security Resources Board, and therefore, had an opportunity to present the economic picture. The only reason at that time the Secretary of the Treasury was not a statutory member of the council was because the Secretary of the Treasury, the Honorable John W. Snyder, was so close to the President that they would not have had a meeting getting his advice on economic matters.

Yesterday, I made a talk on this subject on the Senate floor. I now have a very brief résumé of the reasons for my position. Incidentally, many Senators on both sides of the aisle voluntarily cosponsored this legislation, although I did not ask for any cosponsors.

As I mentioned, the bill has no other purpose than to strengthen the National Security Council whose membership today is limited to but four members; in addition to the President and the Vice President, only the Secretary of State and the Secretary of Defense.

By adding the Secretary of the Treasury as a third cabinet member on this Council, we would be insuring that in the highest advisory body to the President on national security, our vital economic and financial interests would be considered in these important NSC deliberations.

Let us recall the purpose of the National Security Council as it is described in the law which established it, the National Security Act of 1947. This act says the purpose of the National Security Council is "to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security."

It is incredible that in matters such as the sale of grain, for example, the price of oil, and the international monetary fund agreement which was entered into by 128 nations in Jamaica a few weeks ago, there should be no representative on the National Security Council involved in these problems, or that the President would not have the benefit of the advice of his highest man on fiscal and monetary matters.

Let me repeat, the purpose of the Council is "to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security."

As mentioned, any meaningful consideration of domestic, foreign, and military policies relating to the national security would include fiscal—economic—considerations, as these relate to both our domestic well-being and foreign relations. This was precisely the thinking of two Presidential commissions, the Hoover Commission in 1949 and the Murphy Commission in 1975.

In a special report on national security organization, the Hoover Commission emphasized the fundamental importance of economic representation on the National Security Council:

The National Security Act of 1947 contemplates that the National Security Council should weigh our foreign risks and commitments against our domestic and military strength and bring them into realistic balance. . . . The President should be able to access the impact of any plans and programs upon the nation as a whole.

Since the Hoover report, when, incidentally, there were seven members on the National Security Council, including, as I mentioned, the position I once held, Chairman of the National Security

General LeMay returned to the United States a year later and became commander of SAC. He held this position until 1957 when he was appointed Vice Chief of Staff of the United States Air Force. He became Chief of Staff of the United States Air Force in July 1961. He served in this capacity until his retirement in February 1965.

GEN. THOMAS S. POWER

July 1, 1957–November 30, 1964

General Thomas S. Power became Commander in Chief of the Strategic Air Command (SAC) on July 1, 1957. In August 1960 he assumed an additional duty as Director of the newly created Joint Strategic Target Planning Staff.

Under his command, SAC's nuclear deterrent force was expanded and improved. The command became an all-jet bomber force integrated with intercontinental ballistic missiles. General Power initiated action to increase the command effectiveness by having the bombers and missiles on 15-minute ground alert. He also tested and put into being the airborne alert program, in which a certain number of bombers were maintained in the air at all times.

Prior to becoming Commander in Chief of SAC, General Power served three years as commander of the Air Research and Development Command. He served as Vice Commander of SAC from 1948 to 1954.

General Power's military career began in February 1928 in the Air Corps flying school. Early in his career, he served as an Army air mail operations pilot, as a flying instructor at Randolph Field, Texas, and as an engineering and armament officer at Nichols Field, in the Philippines.

During World War II, General Power first saw combat as a B-24 pilot with the 304th Bomb Wing in North Africa and Italy. In August 1944 he was named commander of the B-29 equipped 314th Bomb Wing which he moved subsequently to Guam as part of the 21st Bomber Command. On March 9, 1945 he led the first large-scale fire bomb raid on Tokyo, initiating revolutionary new tactics which helped to speed the end of the air war in the Pacific.

In August 1945 General Carl Spaatz, then commanding general of the United States Strategic Air Forces in the Pacific, selected General Power as his Deputy Chief of Operations. He served in this capacity during the atomic bomb attacks on Hiroshima and Nagasaki. In 1946, General Power participated in the "Crossroads" atomic bomb tests at Bikini Atoll as Assistant Deputy Task Force Commander for Air.

After the atomic weapons tests, he served as Deputy Assistant Chief of Air Staff for Operations in Washington and later as Air Attaché in London.

General Power served as Commander in Chief of SAC until November 30, 1964 when he was succeeded by General John D. Ryan. General Power retired from the military on December 1, 1964. He died on December 6, 1970 at the age of 65.

GEN. JOHN D. RYAN

December 1, 1964—January 31, 1967

General John D. Ryan culminated over 17 years of command and staff assignments in the Strategic Air Command by becoming the Commander in Chief of SAC on December 1, 1964.

General Ryan's first SAC assignment was in April 1946 with the 58th Bombardment Wing at Carswell AFB, Texas. While assigned to the 58th Bomb Wing he participated in the Bikini Atoll atomic weapons tests as Assistant Chief of Staff for Plans for the wing. He later became Director of Operations for Eighth Air Force at Carswell AFB.

He commanded the 509th Bombardment Wing at Walker AFB, New Mexico, from 1948 to 1951 and the 97th Bombardment Wing and 810th Air Division at Briggs AFB, Texas, from 1951 to 1953. He was 19th Air Division commander at Carswell AFB, Texas, for three years before becoming Director of Materiel for Headquarters SAC in June 1956.

General Ryan assumed command of SAC's Sixteenth Air Force in Spain in 1960. He returned to the United States in July 1961 to command the Second Air Force at Barksdale AFB, Louisiana.

After one year as Inspector General of the U.S. Air Force, General Ryan came back into SAC as Vice Commander in Chief. In December 1964 he became Commander in Chief of SAC. He held this position until February 1967 when he was assigned as Commander in Chief of Pacific Air Forces.

While he was Commander in Chief, the Strategic Air Command became actively involved in the United States military action in Southeast Asia. The command's B–52s began bombing enemy positions in South Vietnam in support of ground troops. At the same time, SAC KC–135 tankers provided air refueling support for SAC bombers and all types of tactical fighter missions in Southeast Asia.

General Ryan was instrumental in the continued improvement and modernization of the command's forces. While he was in command, SAC received the new swing-wing FB–111 bomber and replaced the B–47 and older B–52 bombers. The command also phased out the Atlas and older Minuteman I intercontinental ballistic missiles, replacing them with the more modern Minuteman II and Titan II missiles.

From SAC, General Ryan went to command the Pacific Air Forces and became Vice Chief of Staff of the U.S. Air Force in August 1968. The following year he was appointed Chief of Staff of the United States Air Force, a position he held until his retirement on August 1, 1973.

GEN. BRUCE K. HOLLOWAY

August 1, 1968—April 30, 1972

General Bruce K. Holloway served as Commander in Chief of the Strategic Air Command from August 1, 1968, to April 30, 1972.

A graduate of the United States Military Academy in 1937, he received his pilot wings at Kelly Field, Texas, the following year. From 1939 to 1940 he served with the Sixth Pursuit Squadron and 18th Pursuit Group in Hawaii before taking a post-graduate course in aeronautical engineering at the California Institute of Technology.

Shortly after the United States entered World War II, he went to Chunking, China, as a fighter pilot with the famed "Flying Tigers" of the American Volunteer Group. Remaining with that group after it became the Army Air Force's 23d Fighter Group, he became its Commander before returning to the United States in 1944. During that tour in China, General Holloway earned status as a fighter ace, shooting down 13 Japanese planes.

General Holloway took command of the Air Force's first jet-equipped fighter group (1st Fghter Group) in 1946. As commander of the unit, he performed pioneer service in the new field of tactical jet air operations.

After graduation from the National War College in 1951, he progressed through key staff assignments in both operations and development fields at United States Air Force Headquarters. Later, as Director of Operational Requirements, he played a key role in preparing and evaluating proposals for many of our present aircraft and missiles.

He spent four years in the Tactical Air Command (TAC) as Deputy Commander of both the 9th and 12th Air Forces and in 1961 was named Deputy Commander in Chief of the U.S. Strike Command at MacDill AFB, Florida. Later in that assignment, he also fulfilled additional responsibilities as Deputy Commander in Chief of the Middle East/Southern Asia and Africa South of the Sahara Command.

General Holloway assumed command of the United States Air Forces in Europe in July 1965, serving in that capacity until his appointment as Vice Chief of Staff of the United States Air Force on August 1, 1966.

He retired from the United States air Force on April 30, 1972.

GEN. JOHN C. MEYER

May 1, 1972–July 1, 1974

General John C. Meyer, the leading American ace in Europe during World War II, became the seventh Commander in Chief of the Strategic Air Command on May 1, 1972.

He began his military career in the Air Corps in November 1939. In July 1940 he was commissioned as a second lieutenant and awarded pilot wings.

In July 1943 he commanded the 487th Fighter Squadron and led it into combat during World War II. By the end of the year he had flown over 200 combat missions and recorded 37½ aircraft destroyed in the air and on the ground.

After World War II he returned to the United States as the Secretary of Air Force's principal point of contact with the House of Representatives. In 1950 he assumed command of the 4th Fighter Group at New Castle, Delaware. He led this F–86 Sabrejet group to Korea where the unit flew in the 1st United Nations Counter-offensive and Chinese Communist Forces Spring Offensive campaigns. General Meyer destroyed two communist MIG–15 aircraft during his tour of duty in Korea.

General Meyer was assigned to the Strategic Air Command in 1959 as commander of the 57th Air Division at Westover AFB, Massachusetts. In 1961 he became the 45th Air Division commander at Loring AFB, Maine.

In 1962 General Meyer came to Strategic Air Command Headquarters as Deputy Director of Plans, and as Chief Strategic Air Command Representative to the Joint Strategic Target Planning Staff.

From SAC, General Meyer served as Commander of the Tactical Air Command's 12th Air Force. After over two years in TAC, he was assigned to the Joint Chiefs of Staff, as Deputy Director, Vice Director and later as Director of Operations.

In August 1969 he became Vice Chief of Staff of the United States Air Force. He served in this position until May 1972 when he became Commander in Chief of SAC.

As SAC Commander General Meyer directed SAC's efforts during the peak period of SAC's combat involvement in Southeast Asia, which included the climatic LINEBACKER II operation. During that 11-day air campaign in December 1972, SAC B–52 bombers struck military targets in the Hanoi and Haiphong area of the Republic of North Vietnam. Soon after LINEBACKER II a peace agreement was reached in Vietnam.

General Meyer retired from active military service on August 1, 1974.

SAC CONSULTATION COMMITTEE

Harold W. Andersen, J. D. Anderson, John H. Becker, Maj. Gen. Timothy J. Dacey, Jr., USAF, Ret., Leo A. Daly, Robert B. Daugherty, John D. Diesing, Charles W. Durham, Kermit Hansen, John C. Kenefick, Peter Kiewit, John R. Lauritzen,

Edward W. Lyman, Jack A. MacAllister, Morris F. Miller, Nick T. Newberry, Julius I. Novak, Charles D. Peebler, Jr., J. R. Reifschneider, V. J. Skutt, A. V. Sorensen, Arthur C. Storz, Robert H. Storz, Willis A. Strauss, A. F. Jacobson, Chairman.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Resources Board, who brought economic representation to the Council, today there are only these four members on this Council, and no economic representation.

Now let us consider the final recommendation of the Murphy Commission, that Presidential Commission on the Organization of Government for the Conduct of Foreign Policy, which was established by President Nixon in 1972.

In its June, 1975 final report, this Commission stated:

> Increasingly, economic forces define the strength or weakness of nations, and economic issues dominate the agenda of international negotiation. National Security policy is no longer simply a mix of diplomatic and military affairs; properly understood, national security embraces economic policy too. Accordingly, the membership of the National Security Council should be expanded to include the Secretary of the Treasury, and its jurisdiction expanded to include major issues of international economic policy-making.

On October 2, 1975, the Senate Armed Services Committee, after holding hearings, unanimously approved and recommended that the Secretary of the Treasury be placed on the National Security Council.

On October 9, this bill unanimously passed the Senate, with bipartisan support, including majority and minority leaders among the cosponsors.

On December 9, the House Armed Services Committee, after holding their hearings, also unanimously approved and recommended that the Secretary of the Treasury be placed on the National Security Council; thereupon, on December 17, this bill unanimously passed the House of Representatives.

Then, as we know, on New Year's eve, President Ford vetoed this bill.

The Wall Street Journal had reported on December 12 that Secretary Kissinger had objected to placing the Secretary of the Treasury on the National Security Council.

I do not wish to be critical of the Secretary of State, but sometimes, as I watch the amount of money that we are putting out in an effort, as I see it, to buy the peace, which perhaps was the great mistake of Great Britain in the 1930's. I can understand why he did not want anyone at Cabinet level on the National Security Council who represented our economic interests.

The President—and I refer to his veto message—tells us that economic matters are handled as a matter of routine through other channels; and that it would be "unnecessary" to have the Treasury Secretary on the National Security Council.

That this President, or any President, would subscribe to the narrow view that national security is limited on to diplomatic and military problems—and would not automatically include economic considerations—is to me little short of astounding.

Mr. President, I believe, in the interest of the United States, the economy is also important to security and also to the well-being of our country.

Therefore, I urge Congress to override the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, how much time does the Senator require?

Mr. PERCY. Three minutes.

Mr. TOWER. I yield 3 minutes to the Senator from Illinois.

Mr. SYMINGTON. Mr. President, I yield the able senior Senator from Illinois as much time as he would like.

Mr. TOWER. And I yield to him as much time as he desires.

Mr. PERCY. I appreciate my colleagues yielding time.

Mr. President, I wish to precede my comments by simply reiterating my deep concern and interest in the importance of economic affairs as they relate to the future development of our Nation, not only internally and domestically but also in the world community.

As I believe the distinguished Senator from Missouri (Mr. SYMINGTON) and other members of the Committee on Foreign Relations know, I have taken the position for a long time, with the State Department, that it is unwise for us to have an alternating Under Secretary for Political Affairs and then occasionally an Under Secretary for Economic Affairs. It seems to me that, for a long time to come, political affairs of this Nation will be of a permanent nature, and so will economic affairs. It seems to me we should have an Under Secretary for Political Affairs and another for economic affairs.

Acting on behalf of the administration, I submitted a measure, drafted by the State Department, to implement this. It is now law, and we have had a full-time Under Secretary for Economic Affairs for some time.

So, too, I feel in the matter of the National Security Council, that the Secretary of the Treasury has a great responsibility throughout the world, as has been pointed out by the distinguished senior Senator from Missouri in his remarks on the floor of the Senate.

The Secretary of the Treasury has a role in the world that is important. This was borne out this morning in testimony that former Secretary Rusk gave before the Government Operations Committee, when he testified on the question of how we handle oversight over the security and intelligence activities of the country.

Former Secretary Rusk observed that, in his judgment, not only did Congress have a greater responsibility for oversight, but also, national security members should assume a greater responsibility in oversight. He testified this morning that he, as Secretary of State, was surprised subsequently to find that certain actions had occurred of which he was not aware and should have been aware, as Secretary of State.

I did not specifically put this particular question to him, because it was not really germane to our hearings; but his general assumption that greater responsibility should be taken by national security members, I think, would be reinforced by making the Secretary of the Treasury a statutory member. We have only two members right now from the Cabinet. I am not so sure that the Attorney General should not be a statutory member. I think with it written into law that they have this responsibility, they would take that responsibility much more seriously.

As former Attorney General Katzenbach testified this morning, the pressures of time on Cabinet officials are very great indeed. But if they are going to have this responsibility, I think they should have it in a more formalized way. Certainly, they should not be in a position where, by leave of the President, they are just performing that function then and sitting in. If they looked into or began to severely question certain of our activities, let us say in the covert field, someone might be inclined to advise that they keep their cotton-picking hands off their business.

That has been our great trouble in the intelligence community, that it is their business when it is really our business.

I think we should do everything we can to strengthen our oversight and I think by overriding this veto, we will be really strengthening the oversight of the executive branch of Government for a long time to come.

Mr. SYMINGTON. Will the Senator yield for a question?

Mr. PERCY. I am happy to yield.

Mr. SYMINGTON. I noticed during the holidays that the International Monetary Fund met in Kingston, Jamaica; 128 countries having to do with our fiscal and monetary world problems, as well, of course, as those of the United States. At that conference, the Secretary of the Treasury was the No. 1 man for the United States. The Senator has had great banking and business experience. He knows that problems of the economy are inextricably bound up in any diplomatic and military problems. Does he not think it unfortunate that in Jamaica, earlier this month, 128 countries met to make major decisions—and they were major, comparable in many ways to the Dumbarton Oaks conference—does the Senator not think it extraordinary that there was not a single member of the National Security Council present at those meetings?

Mr. PERCY. I should think so. Obviously, the Secretary of the Treasury sits in on such meetings, but he ought to be a statutory member, in the opinion of the Senator from Illinois. I think it fitting that a member of the Security Council should be participating, with the kind of stature he would have, in such a forum.

Mr. SYMINGTON. The only reason I brought it up is that the claim is made

that economic problems are not important enough and should be handled on a routine basis as against diplomatic and military problems. The able Senator and I serve on the Committee on Foreign Relations. If we are discusing the currency problems of 128 countries, there is certainly a great deal of diplomatic interest and action incident to such a discussion. Therefore, I do not see how they could be separated. That was the thrust of my question.

Mr. PERCY. To reinforce the distinguished Senator's point, I remind the Senator that at the height of the embargo, when it looked like the whole economy of this country and the Western World might be imperiled, it was the Secretary of the Treasury who was going around the world, to the Middle East, calling on various countries, and denouncing certain actions, pointing out the specific implications of those actions.

It is the Secretary of the Treasury, certainly, who works with many of the countries where a tremendous impact has been had from these fallout effects.

I say only, once again, that this is why I sponsored the legislation to have a full-time Under Secretary of State for Economic Affairs, because it was inconceivable to the Senator from Illinois that economics would not be right up there on a par with politics in the world in which we live. The Senator has served as a member of the delegation to the U.N. The Senator from Illinois served in the fall of 1974. Increasingly, the issues are economic issues in that international forum. Certainly, we cannot separate our intelligence and all of that from the economics of the matter.

In fact, the first debriefings I ever gave were 20-some years ago to the CIA, every time I came back. I thought it was an outstanding thing that they would reach out for businessmen doing business abroad to brief them on the economic implications of what they were doing abroad. That was 20 years ago. The impact is far greater today on the economics of the interrelated world in which we live.

Certainly, I feel that the chief fiscal officer of our country should be and deserves to be a statutory member of the National Security Council.

Mr. SYMINGTON. I thank my able colleague. Would he not agree that the price of oil was a vitally important economic matter as well as a diplomatic matter?

Mr. PERCY. It seems to me that we could have gone to war over it. In fact, it is the economics of the Middle East, just as much as the politics of the Middle East, that I think have great impact.

Mr. SYMINGTON. I thank the Senator.

Mr. PERCY. I think I can only reinforce what my distinguished colleague has had to say heretofore.

Mr. SYMINGTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. SYMINGTON. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. President, before us today is the question of whether the economic and fiscal aspects of our national security should be given full statutory consideration, by congressional mandate, in the deliberations of the National Security Council. The National Security Council is directed by law "to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security." Our distinguished colleague, Senator SYMINGTON, whose command of these issues is matched by few Senators, has argued persuasively that the Secretary of the Treasury, the Cabinet member charged specifically with guarding our economic interests, should be a full member of the National Security Council. Senator SYMINGTON has cited the impact of the 1973 oil embargo and overseas grain sales on the domestic economy, both as examples of national security matters profoundly affecting economic prosperity.

Everyone here is aware that the National Security Council, now composed of the President, the Vice President, the Secretary of the State, and the Secretary of Defense, deals with foreign and domestic policies regarding our national security, with the President making decisions based on Council discussions. And we are all increasingly concerned with the interdependence of these national security issues with our economic concerns both in the world at large and here at home.

Senator SYMINGTON expresses it better than I could:

Inasmuch as a sound economy, with a sound dollar, is vital to national security, should there not be concern that the Nation's chief fiscal and monetary officer . . . has no statutory right to participate in these high-level discussions of national security issues?

This concern was expressed by the Congress when this bill was passed unanimously by both Houses. Senator SYMINGTON's bill has been recommended recently by the Presidential Commission on the Organization of Government for the Conduct of Foreign Policy, the Murphy Commission, and has been recommended in principle in the past by former President Hoover, in his capacity as Chairman of the Commission on the Organization of the Executive Branch of Government.

And the President has said that to grant full Council status to our top economic official is "undesirable as well as unnecessary."

Both Houses of Congress have already disagreed with this judgment.

Both Houses of Congress have recognized the importance of the economic implications of our foreign policy and our national security, and have addressed the need for closer consideration of our economic needs in decisions relating to our national security.

Both Houses of Congress have recognized that existing mechanisms for coordination of our national security and domestic and international economic policy are inadequate.

For all these reasons, Mr. President, both Houses of Congress should continue to insist that, as the Murphy Commission stated:

National security policy is no longer simply a mix of diplomatic and military affairs properly understood, national security embraces economic policy as well. Accordingly, the membership of the National Security Council should be expanded to include the Secretary of the Treasury.

We should, therefore, vote to override this veto.

Mr. KENNEDY. Mr. President, the question has been raised in connection with this debate as to the status of the President's action on S. 2350 in light of the pocket veto clause of the Constitution, article I, section 7, clause 2.

By returning the bill to the Senate, the President has clearly indicated his intention to treat this bill as a normal veto. Without question, the Senate is amply justified in treating the veto as a normal veto, rather than a pocket veto, and in proceeding, therefore, to vote on whether to override the veto.

The pocket veto question arises because the President's action in returning the bill to Congress is as unprecedented as it is welcome to those of us who have been endeavoring to obtain a rationale construction of the pocket veto clause, consistent with the legitimate powers of Congress under the Constitution.

Heretofore, Presidents have uniformly treated the sine die adjournment of the first session of a Congress as an occasion for a pocket veto, in spite of the fact that the rationale for such a pocket veto had lost its logic during the relatively brief adjournments that Congress now takes.

When a bill is pocket vetoed, the President is said to "put it in his pocket"—the bill is not returned to Congress, and Congress has no chance to override the veto. Since the pocket veto is, in effect, an absolute veto, it has been a periodic source of friction between Presidents and Congress for many years. In fact, the absolute veto power of King George III was the first of the 26 grievances cited against the King by the colonists in the Declaration of Independence:

(. . . [L]et Facts be submitted to a candid World. He has refused his Asent to Laws, the most wholesome and necessary for the public Good.)

Recently, the U.S. Court of Appeals for the District of Columbia Circuit ruled in my favor in an action I had brought, challenging the pocket veto by President Nixon of the Family Practice of Medicine Act during the 5-day Christmas adjournment of Congress in 1970. The case is reported in *Kennedy* v. *Sampson*, 511 F 2d 430 (1974). The administration declined to request Supreme Court review of the decision.

Subsequently, and somewhat belligerently, ignoring the obvious rationale of that decision, the administration chose to try to limit the ruling to its facts and insisted on its pocket veto power during longer adjournments of Congress.

In early 1974, I filed another action in the U.S. District Court for the District of Columbia, challenging a pocket veto by President Nixon of a charter bus

transportation bill during the *sine die* adjournment of the 1st session of the 93d Congress.

Later in 1974, President Ford pocket vetoed an aid-to-the-handicapped bill during the 31-day election adjournment of the 2d session of the 93d Congress. In this instance, the President had actually returned the bill to Congress, but with an ambiguous message which appeared to be a normal veto but which contained a proviso reserving the right to call his action a pocket veto.

Congress treated the message as a normal veto and proceeded to override it. But the President insisted the message had been a pocket veto, in spite of the rather ridiculous legal posture the administration was forced to take. The pocket veto clause provides that a pocket veto applies where an adjournment of Congress prevents the President from returning a bill to the Senate or the House. In the case in question, the President was maintaining that the election adjournment had prevented the return of the bill. But in fact, as everybody knew, the President had succeeded in returning the bill to Congress with no difficulty at all.

The distinguished constitutional law professor, Thomas Reed Powell, once said,

> If you think you can think about a thing inextricably attached to something else without thinking of the thing which it is attached to, then you have a legal mind.

By this test, the administration obviously qualifies as having a legal mind.

So, I amended my pending action in the district court to include a challenge to this pocket veto as well. That action, as amended, is currently pending before Judge Sirica. The judge ruled earlier this week that I had standing to bring the case and that the action was not moot, thereby disposing of the procedural questions in the case. As a result, the case is now ready to proceed to a decision on the merits of the two pocket vetoes in question.

Last spring, the Ford administration's hardline position began to thaw. During the 11-day Memorial Day recess in 1975, the President returned two bills to Congress as completely normal vetoes—the messages did not contain the pocket veto proviso used a few months earlier in the fall of 1974.

However, Congress did not attempt to override either veto. The legal issue with respect to these two bills was therefore moot, since the bills could not become laws under either the administration's interpretation or the congressional interpretation of the pocket veto clause.

That brings us to the administration's recent additional thaw, extending the practice of returning bills as unqualified normal vetoes to the sine die adjournment just past.

Recently, I wrote to Solicitor General Bork, asking for clarification of the administration's apparent shift in position on the issue, since the administration finds itself in the ungainly position of defending its pocket veto power in court while abandoning it before Congress.

An adjournment of Congress either occasions a pocket veto or it does not. There is no suggestion in the Constitution or the pocket veto precedents to support the proposition that a President has any discretion to choose between a pocket veto or a normal veto during the same adjournment of Congress.

I feel we have made a great deal of progress on this issue since the confrontations of recent years. The decision of the President to return S. 2350 to Congress with a normal veto is a generous conciliatory gesture to the Senate and House. I also see it as a clear vindication of the position that Senator Sam Ervin, I and other Members of Congress have been trying for many years to establish.

Mr. President, I ask unanimous consent that my letter of January 7, 1976, to Solicitor General Bork may be printed in the RECORD. I am currently awaiting his reply, which I hope will lead to a prompt and final settlement of the pocket veto issue.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
January 7, 1976.

Hon. ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C.

DEAR MR. SOLICITOR GENERAL: I am writing to request clarification of the Administration's current position with respect to the use of the pocket veto during adjournments of Congress.

The first session of the 94th Congress adjourned *sine die* on December 19, 1975. The second session of the 94th Congress is scheduled to begin on January 19, 1976. During the current *sine die* adjournment, the President has vetoed two bills—S. 2350 (to make the Secretary of the Treasury a member of the National Security Council), and H.R. 5900 (the Common Situs Picketing Bill). In both cases, the President returned the bills to Congress in a form essentially identical to the form used for a "normal" or "return" veto, which Congress may vote to override.

In the past, however, President Ford has chosen to use a form of veto during such adjournments that preserves the Administration's previous position that such bills may be pocket vetoed, which would prevent Congress from overriding the veto. The President's recent action thus appears to be inconsistent with the Administration's prior claim.

Certainly, nothing in the Constitution or Supreme Court decisions on the pocket veto power suggests that the President has any discretion to choose between a pocket veto or a return veto during an adjournment of Congress. Either the Pocket Veto Clause of the Constitution, Article I, Section 7, Clause 2, applies, or it does not.

As you know, I have filed an action in the U.S. District Court in Washington, challenging pocket vetoes in similar circumstances by President Nixon in January 1974, and by President Ford in October 1974. The case is now awaiting action by the Court.

Although I supported both S. 2350 and H.R. 5900 and regret the vetoes, I welcome the President's decision to send these two bills back to Congress in the form of a return veto, not a pocket veto. The President's action is an appropriate conciliatory gesture toward Congress that respects the constitutional prerogatives of the House and Senate to act on Presidential vetoes. I hope that this action by the President signals the end of the pocket veto as a bone of contention between Congress and the Administration.

I look forward to your clarification of the Administration's current position, which was foreshadowed by a statement on the floor of the House of Representatives by Congressman John J. Rhodes, Republican House Minority Leader on December 19, 1975. Cong. Rec. H 13071 (Daily Ed.).

If, as the President's recent action indicates, the Administration has in fact changed its position and now agrees that a pocket veto is unconstitutional during such adjournments of Congress, I hope that the Department of Justice will inform the court forthwith of the Administration's new position, so that the continuing controversy over the pocket veto may be settled, and so that an appropriate early disposition may be made of the pending litigation.

Respectfully,

EDWARD M. KENNEDY.

Mr. THURMOND. Mr. President, the bill, S. 2350, presently before the Senate for consideration to override the President's veto, was passed unanimously by the Senate Armed Services Committee last year. Simply stated, it merely requires that the Secretary of the Treasury become a statutory member of the National Security Council.

This bill, authored by the distinguished senior Senator from Missouri, Mr. SYMINGTON, was passed without objection by both Houses of the Congress and in my viewpoint is not a partisan issue.

I am impressed by the fact that the action incorporated in this legislation was recommended by the Murphy Commission established by President Nixon in 1972. Further, former President Herbert Hoover in testimony before the Senate Armed Services Committee following World War II, expressed the viewpoint that financial and economic factors should be weighed carefully in high level considerations on national security issues.

As the Members of the Senate know, one of the gravest problems facing the Nation today involves the huge deficit faced by this Nation. This is graphically illustrated by the fact that in the fiscal year 1977 budget $45 billion in outlays are required simply to pay interest on the national debt. This outlay alone amounts to nearly one-half of the $101 billion defense budget outlays for fiscal year 1977.

Thus, it is obvious that financial considerations and restraints need to be applied in every forum within the National Government, not only the executive branch, but especially in the Congress.

President Ford has submitted to the Nation a fiscally constrained budget for fiscal year 1977. Nevertheless, it contains a deficit of approximately $43 billion.

As regards passage of S. 2350, Congress has taken a step which could lead to even more fiscal constraint, or at the very minimum, it would assure an input on fiscal matters in the NSC. Presently such advice is not always present, although President Ford has frequently utilized such counsel in the past. Further, my view is this bill is not aimed at a particular President, but is intended to assist all future Presidents.

Certainly the Congress should be commended for this action and it would be my hope that the 2d session of the 94th Congress would incorporate such fiscally conservative ideology in its own actions in connection with the fiscal year 1977 budget.

Unfortunately, in my viewpoint the Congress last year added far too much Federal spending to the President's request and the Budget Committee did not provide the restraining force that I had envisioned when it was created in 1974. In fact, the Budget Committee and the Congress increased the fiscal year 1976 deficit significantly.

Hopefully, should the Congress decide to override the President's veto on this bill, they will carry forward this philosophy in the appropriations decided upon for the fiscal year 1977 budget.

Therefore, while I would normally support the President in a matter of this nature, especially when it involves his own advisory counsel, my deep concern reference the Nation's serious financial condition causes me to cast my vote in favor of overriding the veto of S. 2350.

Mr. TOWER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays are mandatory under the Constitution.

Under the previous order, all time having expired on the President's veto message on S. 2350, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG) is absent due to illness in the family.

The yeas and nays resulted—yeas 72, nays 16, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—72

Beall	Church	Hartke
Bellmon	Clark	Haskell
Bentsen	Cranston	Hatfield
Biden	Culver	Hathaway
Brock	Dole	Helms
Brooke	Durkin	Hollings
Bumpers	Eagleton	Huddleston
Burdick	Eastland	Humphrey
Byrd,	Ford	Jackson
Harry F., Jr.	Garn	Javits
Byrd, Robert C.	Glenn	Johnston
Cannon	Gravel	Kennedy
Case	Hart, Gary	Leahy
Chiles	Hart, Philip A.	Long
Magnuson	Nunn	Sparkman
Mansfield	Pastore	Stevens
Mathias	Pearson	Stevenson
McClellan	Pell	Stone
McClure	Percy	Symington
McIntyre	Proxmire	Taft
Metcalf	Randolph	Talmadge
Montoya	Ribicoff	Thurmond
Moss	Roth	Williams
Muskie	Schweiker	
Nelson	Scott, Hugh	

NAYS—16

Allen	Goldwater	Tower
Baker	Griffin	Weicker
Bartlett	Hruska	Young
Buckley	Packwood	
Curtis	Scott,	
Domenici	William L.	
Fannin	Stafford	

NOT VOTING—12

Abourezk	Inouye	Mondale
Bayh	Laxalt	Morgan
Fong	McGee	Stennis
Hansen	McGovern	Tunney

The PRESIDING OFFICER (Mr. DURKIN). On this vote, the yeas are 72 and the nays are 16. Two-thirds of the Senators present and voting, having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

EXECUTIVE SESSION

INTER-AMERICAN CONVENTION ON GRANTING OF POLITICAL RIGHTS TO WOMEN; CONVENTION ON THE POLITICAL RIGHTS OF WOMEN; INTERNATIONAL TELECOMMUNICATION CONVENTION, 1973, WITH ANNEXES AND FINAL PROTOCOL; TELEGRAPH AND TELEPHONE REGULATIONS, WITH APPENDICES AND FINAL PROTOCOL; PARTIAL REVISION OF THE RADIO REGULATIONS (GENEVA 1959) WITH FINAL PROTOCOL

The PRESIDING OFFICER (Mr. DURKIN). Under the previous order, the Senate will now go into executive session and will proceed to vote on the resolutions of ratification of Executive D, 81st Congress, 1st session; Executive J, 88th Congress, 1st session; Executive J, 93d Congress, 2d session; Executive E, 93d Congress, 2d session; and Executive G, 94th Congress, 1st session, with the one vote to count for the five treaties.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will state the first resolution of ratification.

INTER-AMERICAN CONVENTION ON GRANTING OF POLITICAL RIGHTS TO WOMEN

The resolution of ratification of Ex. D was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on The Granting of Political Rights to Women, Formulated at the Ninth International Conference of American States, and signed at Bogota, Colombia, on May 2, 1948, by the Plenipotentiaries of the United States of America and by the Plenipotentiaries of other American States (Ex. D, 81st Congress, 1st session).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Ex. D, 81st Congress, 1st session, Inter-American Convention on Granting of Political Rights to Women? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG) is absent due to illness in the family.

The yeas and nays resulted—yeas 88, nays 0, as follows:

[Rollcall Vote No. 2 Ex.]

YEAS—88

Allen	Garn	Moss
Baker	Glenn	Muskie
Bartlett	Goldwater	Nelson
Beall	Gravel	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hart, Gary	Pastore
Biden	Hart, Philip A.	Pearson
Brock	Hartke	Pell
Brooke	Haskell	Percy
Buckley	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd,	Hollings	Roth
Harry F., Jr.	Hruska	Schweiker
Byrd, Robert C.	Huddleston	Scott, Hugh
Cannon	Humphrey	Scott,
Case	Jackson	William L.
Chiles	Javits	Sparkman
Church	Johnston	Stafford
Clark	Kennedy	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Magnuson	Symington
Dole	Mansfield	Taft
Domenici	Mathias	Talmadge
Durkin	McClellan	Thurmond
Eagleton	McClure	Tower
Eastland	McIntyre	Weicker
Fannin	Metcalf	Williams
Ford	Montoya	Young

NAYS—0

NOT VOTING—12

Abourezk	Inouye	Mondale
Bayh	Laxalt	Morgan
Fong	McGee	Stennis
Hansen	McGovern	Tunney

The PRESIDING OFFICER (Mr. FORD). On this vote, the yeas are 88, the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION ON THE POLITICAL RIGHTS OF WOMEN

The resolution of ratification of Ex. J. was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession by the

new realism and commonsense in the affairs of our Government, the budget submitted certainly does reflect realism and commonsense.

Furthermore, as one who has served nearly 20 years in the Congress—10 years on the other side of the Capitol and now almost that long in this body—I cannot recall a year, under any administration, of either party, when there has been such careful preparation and such an excellent presentation made as in the case of this budget for fiscal 1977.

Late in the afternoon on yesterday the President briefed the joint leadership of Congress on the budget—a group which included the leadership of committees. I understand that earlier in the same day, the President also personally briefed the press on the budget, and demonstrated quite effectively just how thoroughly familiar he is with the details of this budget. He demonstrated also, in my view, some of the advantages and the importance of having a President who has served and worked for a long time in the Congress—a President who understands the budget process from the viewpoint of Congress as well as from the viewpoint of the executive branch.

So, despite the fact that this is an election year, as the minority leader has suggested, I hope that it will be possible to put politics aside with respect to most of the matters related to this budget. I am convinced that there is a consensus among the people in the country that it is time for restraint in Government spending, that it is time to hold the line and fight inflation, by adopting the new realism and commonsense, called for by President Ford.

ORDER FOR TIME OF SENATOR KENNEDY TO BE GIVEN TO SENATOR SYMINGTON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time allotted to Mr. KENNEDY under the order previously entered be given to Mr. SYMINGTON, along with his order, which also has been entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO VITIATE ORDER FOR RECOGNITION OF SENATOR TUNNEY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. TUNNEY be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized for a time not to exceed 30 minutes.

Mr. SYMINGTON. Mr. President, I thank the assistant majority leader for his typical courtesy.

VETO OVERRIDE OF BILL TO PLACE THE SECRETARY OF THE TREASURY ON THE NATIONAL SECURITY COUNCIL

Mr. SYMINGTON. Mr. President, last New Year's Eve, the President vetoed S. 2350, a bill to make the Secretary of the Treasury a statutory member of the National Security Council.

This proposal to place the Nation's top public servant on financial matters on this Council was no "casual idea." It had been recommended by the Murphy Commission, that Presidential Commission on the Organization of Government for the Conduct of Foreign Policy which was established by President Nixon in 1972.

It had been the subject of congressional hearings.

It had been approved and recommended by the appropriate committees of the Senate and the House of Representatives; and was passed unanimously by both Houses of Congress, with bipartisan support.

Ironically, the President vetoed the bill for the very reason it was introduced, because as his veto message stated:

> The Council's function under the law, is to advise the President with respect to the integration of domestic, foreign and military policies relating to national security.

That is precisely what we had in mind when Congress passed S. 2350.

As everybody knows, foreign and domestic policies relating to national security are discussed at the highest level in the National Security Council, with the President thereupon making final decisions.

In addition to the President and Vice President, however, statutory membership on the National Security Council is presently limited to but two others, the Secretary of State and the Secretary of Defense; and the primary purpose of S. 2350 was to insure that, in accordance with the function of the National Security Council as described by law, the economic and fiscal aspect of national security be considered in any discussion of various domestic or any foreign policy matters.

A sound economy, with a sound dollar, is recognized as a vital aspect of a national security; therefore, the Nation's chief financial officer should have the statutory right to participate in formal discussions of national and international policy issues which relate to overall national security.

Such issues obviously relate to the area of special knowledge and responsibility of the Secretary of the Treasury; and they are issues about which all responsible citizens, regardless of party, are becoming increasingly concerned.

This was precisely the thinking of the Murphy Commission. In its June 1975 report that Commission stated:

> Increasingly, economic forces define the strength or weakness of nations, and economic issues dominate the agenda of international negotiation. National security policy is no longer simply a mix of diplomatic and military affairs; properly understood, national security embraces economic policy too. Accordingly, the membership of the National Security Council should be expanded to include the Secretary of the Treasury, and its jurisdiction expanded to include major issues of international economic policy-making.

Let us note also that as early as 1949, 2 years after the National Security Council was created, former President Hoover, then Chairman of the Commission on the Organization of the Executive Branch of Government, declared in testimony before the Senate Armed Services Committee:

> It would seem to me that certain fundamentals of economics ought to be represented on that Commission [the National Security Council], because the Nation is in as much jeopardy from economic overstrain as it is from military destruction. I was in hopes that the composition of the Council would be widened out, with more representation from the economic side.

President Hoover added:

> I have the feeling we are discussing problems that are constantly intermixed ones—one is economic capacity and others are preparedness and action in war.

Since Mr. Hoover made those statements, the National Security Counsel, once composed of seven people, has now been reduced to four.

The Hoover Commission on the Organization of the Executive Branch of Government, in a special report on National Security Organization, dated January 1949, emphasized the "fundamental importance" of economic representation on the National Security Council as follows:

> The [National Security Act of 1947] contemplates that the National Security Council should weigh our foreign risks and commitments against our domestic and military strength and bring them into realistic balance.
>
> The Council membership wisely includes the Chairman of the National Security Resources Board, thus bringing into its deliberations an appraisal of the effect of its recommendations upon our domestic economy.
>
> As a result, the President should be better able to assess the impact of any plans and programs upon the Nation as a whole.

I served as Chairman of the National Security Resources Board under President Truman—a position which no longer exists—therefore, at present there is no economic representation left on the Council.

President Ford, however—again I refer to his veto message—now tells us that to place the Nation's top economic—domestic—representative on the National Security Council, would be "undesirable as well as unnecessary."

The President noted that any official may attend Council meetings at the President's invitation, but that economic matters are handled as a matter of routine through other channels. In his veto message he further stated:

> The proper concerns of the National Security Council extend substantially beyond the statutory responsibilities and focus of the Secretary of the Treasury. Most issues

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

Vol. 122 WASHINGTON, WEDNESDAY, JANUARY 21, 1976 No. 3

Senate

The Senate met at 12 o'clock meridian and was called to order by Hon. GARY HART, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, open our eyes to Thy beauty, open our minds to Thy truth, open our hearts to Thy love that we may be fit to serve Thee in this place. Anoint us by Thy spirit until the time of work and the time of worship knows no distinction. While we labor for so much that is of material benefit to the Nation, may we also keep kindled the fires of the spirit.

Shepherd us, we beseech Thee, through the difficulties and perils of the coming months. Lead us in paths of righteousness for Thy name's sake in the confidence that goodness and mercy shall follow us all the days of our lives, and our dwelling place will be the house of the Lord forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C. January 21, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. GARY HART, a Senator from the State of Colorado, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. GARY HART thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 20, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 2845, a bill to provide small business concerns with energy research information, which is presently in the Committee on Banking, Housing and Urban Affairs, be referred jointly to the Committee on Banking, Housing and Urban Affairs and the Committee on Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Bob Casey, which I understand is at the desk, and it has been cleared all around.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

FEDERAL MARITIME COMMISSION

The legislative clerk read the nomination of Bob Casey, of Texas, to be a Federal Maritime Commissioner.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE PRESIDENT'S BUDGET MESSAGE

Mr. HUGH SCOTT. Mr. President, the President's budget is before us. It sets some important limitations on the amount of money which the Federal Government will have to expend, and it makes a number of suggestions as to how the money should be expended.

I believe that the Committee on the Budget of each House will work very diligently to seek to bring expenditures within the ceiling limitation. However, I think it is equally important that they work closely with the President and the President work closely with them, as the President suggested to a bipartisan leadership meeting of Congress yesterday afternoon.

The holding of the line is going to be extremely difficult. It is going to require discipline. It is going to require a sense of priorities. It is going to require that we recognize that somebody has to pay for everything Congress does, and that somebody is the people; that sometimes in the past we have given people things they did not ask for, or we have given them more than they wanted and we certainly have taxed them more than they can stand.

If we are to have any further tax relief, we will have to hold the budgetary line. If we are going to continue to cut down inflation, which has been reduced by nearly half, we will have to hew to the budgetary line; and if we are going to avoid new taxes, we certainly will have to stay close to the budgetary line.

So it is my hope that Congress and the President, instead of confrontation, instead of politics, instead of a grasping for advantage, will truly work closely together, in a spirit of genuine cooperation, in an effort to hold that budgetary line.

Mr. GRIFFIN. Mr. President, will the Senator from Pennsylvania yield, so that I may add an observation or two?

Mr. HUGH SCOTT. I am glad to yield.

Mr. GRIFFIN. Mr. President, I agree with the Senator from Pennsylvania, and I wish to be associated with his remarks.

In the spirit of the President's state of the Union message, which called for

that come before the Council on a regular basis do not have significant economic and monetary implications.

That this President, or any President, would subscribe to the narrow view that national security is limited to only diplomatic and military problems—and would not automatically include economic considerations—is little short of astounding.

Are not increases in the price of oil, or foreign sales of grain, vital economic as well as diplomatic, and perhaps military, matters?

Earlier this month, at Kingston, Jamaica, the 128-nation International Monetary Fund approved a new world monetary system that represents a radical departure from the Bretton Woods Conference of 1944. No member of the National Security Council was present. The Secretary of the Treasury was the top U.S. representative at this conference.

It is almost inconceivable that in the deliberations of the National Security Council on the "integration of foreign, domestic, and military policies," as provided by law, such fiscal and monetary considerations as dealt with by the Secretary of the Treasury would not be included.

The Secretary of the Treasury, incidentally, is the highest ranking Cabinet official charged with looking after our Nation's economic interests. In the Cabinet succession to the Presidency, he is preceded only by the Secretary of State.

His absence from the National Security Council reflects as significant weakness in the organization of our Government—a weakness that was recognized by the Hoover Commission back in 1949, the Murphy Commission last year, and now by both Houses of Congress.

If a President truly cares about the economic implications of national security policy, why would he not welcome his Secretary of the Treasury as a member of his highest advisory body?

A bipartisan group of the Senate, including both the majority and minority leaders, cosponsored this bill when it was introduced last September.

The Senate Armed Services Committee, to which the bill was referred originally, voted 16 to 0 to report it favorably. Its report stated, "The Committee strongly supports this legislation," and went on to say:

> The addition of the Secretary of the Treasury to the National Security Council reflects the growing significance of international economics and domestic fiscal affairs in the development of national security policies.
>
> The presence of the Secretary of the Treasury on this Council would help to ensure that fiscal and monetary issues are considered in the discussion of problems relating to our national security.

Later this bill was passed unanimously by the Senate.

Subsequently the House Armed Services Committee, after hearing administration witnesses oppose the bill on grounds it was both "unnecessary and undesirable," also acted favorably, recommending it be passed by the House; and thereupon the House also approved the bill unanimously.

As we now know, however, the President vetoed this bill over the Christmas recess.

Last December 12, the Wall Street Journal reported that the Secretary of State had objected to placing the Secretary of the Treasury on the National Security Council.

The Secretary of State managed Council affairs for the past 7 years, first as National Security Adviser to the President and head of the National Security Council staff, then later as Secretary of State in addition to being the President's National Security Adviser.

Whatever the motivation, surely anyone with experience in either government or business will recognize the basic need for consideration of our growing economic problems before the President makes decisions on matters vital to the security and prosperity of the Nation.

Failure of Congress to recognize that these economic problems are equally important would operate against that security and prosperity; therefore I urge the Congress to override the veto of S. 2350.

I yield the floor, Mr. President.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona is recognized for not to exceed 15 minutes.

Mr. GOLDWATER. I thank the Chair.

CONGRESSIONAL INTERFERENCE WITH FOREIGN POLICY IS PERFORMING THE WORK OF THE ENEMY

Mr. GOLDWATER. Mr. President, as we enter upon the 200th year of America's independence, I believe the American people—and particularly their representatives in the Congress—would be well served by bringing back into public consciousness the first principles which guided the early leaders of America in establishing our unique form of government. The wisdom of our founders and blood of our patriots were devoted to their attainment. These principles should remain the model of our political practice

It is strange and saddening for me that I should have to invoke in this Chamber the essential political creed that won our independence and animated our first efforts at self-government, but I believe we our witnessing a counterrevolution against these principles in the very Halls of Congress that should be their first line of defense.

What are these principles? They are too numerous to detail here in full, but among them is the faith held by the patriots and founders that the American people are unique in their character, their opportunity, and their mission, and that our experiment in freedom and self-government will be an example for the world. They also include the notion, as expressed by Jefferson, that the will of the majority "to be rightful must be reasonable." And they certainly encompass the purpose that government must be strong enough to preserve our freedoms.

Mr. President, I make these comments because I believe that for the first time in the history of our country, we in Congress are forcing a President to come to this body for prior permission to do what he is charged to do under the Constitution—to manage foreign policy as he determines necessary for preserving the safety, the property, and the freedom of Americans.

For what may be the second time in our history, with the period of the 1920's and the 1930's being the only other time, we seem to be losing our faith in the ability of our principles and the role of international leadership which the success of these principles has brought about.

The immediate reason for my remarks is the action taken by the Senate late in December to block any flexibility for the President in funding military assistance to the majority of people in Angola who are resisting Soviet-imposed rule. The things said during debate on Angola, both in closed and open sessions, make me shudder in concern about keeping up our national will to survive in freedom as we now know it. But my remarks apply equally as well to the general phenomenon of congressional adventurism in the field of foreign policymaking.

What the opponents of Presidential direction of foreign policy do not recognize is that their persistent confrontations with the Executive is derogatory to the best interests of the United States. Repeated congressional interference with Presidential decisionmaking at the outset of every foreign crisis, before there is any reasonable time for Members of Congress to make informed judgments of their own, is performing the work of the enemy who wish to negate the will of this country. Each time Congress hinders the Executive from responding in a considered way to totalitarian expansionism and compels the abandonment of friendly foreign groups, we create an impression in the world among allies and enemies alike that we have lost the will to defend freedom.

In the words of the Nobel Prize winner, Alexandr Solzhenitsyn, who has been in the "Archipelago" and knows of what he writes:

> A very dangerous state of mind can arise as a result of this feeling of retreat: give in as quickly as possible, give up as quickly as possible, peace and quiet at any cost.

According to Solzhenitsyn—

> The Communist leaders respect only firmness and have contempt and laugh at persons who continually give in to them. Our liberals respond that a demonstration of power will lead to a world conflict. Solzhenitsyn's reply is that power with continual subservience is no power at all.

Thus, a continual policy of nonaction, not even allowing the President flexibility in making a response at the onset of a crisis, will only solidify an impression among totalitarian leaders of our weakness of will. By leaving the United States no option but to retreat at every point where the Soviets wish to expand, Congress will not only cause us to appear all the more weak in the eyes of totalitarian leaders, but the failure of action reduces the national will to deal with attacks on

freedom by creating confusion in the public over whether resistance is ever necessary.

Mr. President, it is my contention that the Founding Fathers did not vest foreign policy initiative with Congress. The framers understood that a legislature consisting of two bodies with a numerous membership would inherently be reluctant or unable to act in some time of grave need. They saw the Presidency as the Office whose unity and energy would enable it to take independent action when necessary for the public well-being.

The framers had witnessed, the majority of them at firsthand, the incompetency of Congress meddling into military policy during the War of Independence, when the interference of the Continental Congress with the plans of General Washington nearly caused disaster on several occasions. In contrast with this inefficiency of Congress, the framers had fresh memories of the prompt and firm military steps taken by the Executives of Massachusetts and New Hampshire to end armed rebellions in 1786 and 1787.

The framers also recalled that the Continental Congress had actually circulated among the Thirteen States during a low ebb in the Revolution a written plea asking that the powers of the Executives be increased as a solution to the failure of the States in meeting the wartime applications of Congress. Moreover, the framers understood that the obsessive fears of royalty that had dominated public opinion at the outbreak of the Revolution had greatly diminished and that a new concern with possibly tyrannical legislatures had developed in the early 1780's.

This means of interpreting the Constitution, by expounding a power from the defects for which the Constitution was to provide a remedy, was used by George Washington, after becoming President, when he issued the well-known Neutrality Proclamation of 1793. His action is almost universally viewed as establishing the doctrine of Presidential responsibility for determining upon the initial course of foreign policy.

It is very important for us to understand today that Washington's policy was at variance with the prejudices, the feelings, and the passions of a large portion of society at the time he made it, and did not rest on any previous guidance of the legislature. For these reasons, it is an outstanding example of a President making foreign policy for the Nation in conflict with the public passions of the moment in order to uphold what that President judged as required for the safety of the Nation.

This ability to rise above gusts of passion and temporary prejudices is one quality of Presidential leadership which distinguishes executive initiative in the direction of foreign policy and cannot be matched by Congress.

One fact we must remember is that in the context of attitudes toward foreign policy, we as Americans have never really become a nation of Americans. We are still a nation of hyphenated origins, such as Jewish-American, German-American, Italian-American, Polish-American, and so forth. So, when the problem comes upon the floor of the Senate or House as to what we are going to do in the field of foreign policy involving any of the countries with whom substantial numbers of Americans have ancestral ties, you can lay a pretty good sized bet that these ethnic relationships are going to have a strong bearing on how that foreign policy is going to be formulated or implemented.

This is why I believe that, even if the President were not vested with primary control over foreign policy, Congress should not assert its distinct power, but should realize that a single elected official, who would not be disturbed by the politics of the moment, would use these powers far more wisely in the long run of history than a Congress which is constantly looking toward the political results. To put it another way, I would feel safer in this country with the decision for foreign policy being in the hands of one man who had to live with it and be accountable for that decision to the decision to the American people for the rest of his life than in the hands of 535 people whose decisions would be based mostly on the question, "Would it help me get reelected?"

Another consideration we must remember is that Congress it not equipped to direct the day-by-day business of foreign policy; nor is it what we can call a continuing body for other than procedural purposes. Congress changes every 2 years. Sometimes it changes very radically; so what might be a foreign policy subscribed to by the Senate or House this year, 2 years from now might not represent that policy at all. But we do have a President elected for 4 years in the only truly national election provided in our system, whose foreign policy is much more constant and whose corps of advisers is professionally equipped for producing reasoned policies.

In conclusion, Mr. President, I believe Congress should not react instantly to every foreign policy crisis as if it were the State Department, intelligence agencies, National Security Council, and President collectively made into one. Rather, it should conscientiously consider and fully deliberate on foreign matters and give fair opportunity for the executive machinery of government to function before interposing itself in judgments it is neither constitutionally structured, nor qualified, to initiate.

ORDER OF BUSINESS

Mr GOLDWATER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr GOLDWATER. Well, instead of asking unanimous consent to insert this statement, I will take advantage of the opportunity that I have to address this rather complete assemblage.

THE GOLDEN COVERUP AWARD

Mr GOLDWATER. Mr. President, in late December our good friend, Senator PROXMIRE of Wisconsin, made his annual Golden Fleece Award. It was awarded to the Air Force for its having carried Members of Congress on various missions and, of course, this included me. Senator PROXMIRE's award really arouses my interest, so I have been doing some checking since coming back to Washington, and I think it is necessary that we establish another award, The Golden Cover-Up Award. I have not made up my mind as to who should receive it, but I temporarily award it to the Senator from Wisconsin. But it could go equally as well to other Members but that will remain for a later decision.

First, Mr. President, in 1973 the Congress voted to increase the daily counterpart funds from $50 to $75 to Congressmen, staff, et cetera. Lo and behold, the Senator from Wisconsin voted for it and the Senator from Arizona voted against it. Then the Congress voted that these counterpart funds would not be published. What that means is that the public is denied the knowledge of vast sums of money spent by Members of Congress, staff, et cetera, traveling all over the world. But those figures are available and I have assembled them, not only those but others, and from time to time I will put them in the RECORD so that the public can know just what we do on our so-called junkets.

Now I will admit that some of these trips are necessary, but I will also admit that some of them are not and maybe the disclosure I will make, will reduce the number of trips made by Members and staff to any point on the globe they care to go Now for disclosure No. 1. The Air Force during October of 1974 and the entire year of 1975 carried 162 congressional staff members—this does not include Members of Congress—to 91 countries and these people had to be accompanied by 106 officers of the Air Force, and it cost $928,733.83. In order for the people to have a better idea of just what was spent, I ask unanimous consent that a breakdown of these trips be printed at this point in my remarks.

There being no objection, the breakdown was ordered to be printed in the RECORD, as follows:

Harris bill — file legis gen.

a deterrent to effective law enforcement in rape cases. Available statistics indicate that the majority of rapes committed are never reported. The New York City Police Department's Sex Crimes Analysis Unit has estimated that only 1 out of 10 rapes in New York City are reported. Information received by the Task Force on Rape of the National Organization for Women indicates no more than a 50-percent report rate.

The trend in recent court decisions has been to limit and prevent cross-examination about a victim's prior sexual experiences, because it is irrelevant to the issue of whether the defendant committed rape. Just last month, a District of Columbia Superior Court ruled in a rape case that questions could not be asked about the victim's relations with other men. Several States have recently enacted legislation limiting cross-examination about the victim's prior sexual history.

These court decisions and legislative revisions recognize that questions about a rape victim's prior sexual experience are duly prejudicial since they suggest to the jury that the issue is the victim's morality rather than the defendant's guilt.

My bill would prohibit cross-examining the victim about her relations with anyone aside from the defendant. With respect to the defendant, such examination is allowed only if the judge, in a private hearing, determines the testimony is relevant and is not unduly prejudicial.

I recommend swift passage of this bill. The text follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "Privacy Protection for Rape Victims Act of 1976".

SEC. 2. (a) Article IV of the Federal Rules of Evidence is amended by adding at the end thereof the following new rule:

"RULE 412

"Rape Cases; Relevance of Victim's Past Conduct

"Evidence of an individual's prior sexual conduct or reputation is not admissible in any action or proceeding if an issue in such action or proceeding is whether such individual was raped or assaulted with intent to commit rape. The preceding sentence shall not apply to evidence of such individual's prior sexual conduct with the individual who in such action or proceeding is alleged to have committed rape or assault with intent to commit rape. Hearings on the admissibility of evidence under this rule shall in all cases be conducted in chambers.".

(b) The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 411 the following new item:

"Rule 412. Rape Cases; Relevance of Victim's Past Conduct.".

LEGISLATION TO END USE OF EXCHANGE FUNDS TO ESCAPE INCOME TAXES ON REALIZED CAPITAL GAINS

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 10 minutes.

Mr. ULLMAN. Mr. Speaker, yesterday I introduced a bill to put an end as of today to the use of exchange funds as a means of escaping income taxes on realized capital gains on appreciated securities. This bill is identical with the bill introduced by Mr. CORMAN on February 5 except for the effective date. Mr. CORMAN's bill would have been applicable to transfers made after the date of enactment. However, in view of the concern of the recent activity in the promotion and advertising of these swap funds, my bill which Mr. CORMAN and other Ways and Means Committee members are cosponsoring, including Messrs. SCHNEEBELI and CONABLE, the ranking minority members of the committee, is effective with respect to transfers made after February 17, 1976.

In the 1960's, investment funds, known as "swap funds," were organized to allow taxpayers to exchange appreciated stock for shares in investment funds without any tax consequences on the appreciation of the stocks transferred to the fund. In 1966, Congress enacted an amendment to eliminate tax-free exchanges of appreciated stock for shares of an investment company. The 1966 amendment applied only to corporate funds, including real estate investment trusts and regulated investment companies. It did not apply to partnerships.

Recently, the promoters of syndicated swap funds have been using limited partnerships as a vehicle for these tax-free exchanges. This bill provides that the gain realized on a transfer of stock to a fund will be taxable. The bill also covers two other swap-fund-type transfers: first, it would make mergers of two investment companies taxable; and, second, it would cover certain reorganizations, such as where mutual funds issue their shares to acquire all of the stock or assets of family held personal holding companies. The bill, as I have already indicated, is effective for any transfer made after February 17, 1976.

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

GUARANTEEING EFFECTIVE, STABLE GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 10 minutes.

Mr. HARRIS. Mr. Speaker, today I am introducing a bill which, I believe, will improve the quality of our Government. The bill makes three changes in the salary-setting policy of the Federal Government: First, it repeals the "pay freeze" on those general schedule employees affected by it; second, it removes executive, legislative, and judicial personnel from the annual comparability process brought under it by Public Law 94-82; and third, it tightens up the Quadrennial Commission process for adjusting the salaries of top executives so that the Commission's recommended changes would go into effect early in 1977.

THE PAY FREEZE IS HARSH

My bill would phase out the 1969 pay ceiling on career general schedule employees over a 5-year period in $2,000 increments. It was imposed in 1969, freezing salaries at $36,000 until October 1975 when it was adjusted slightly to $37,800. Though a 5-percent increase was granted in October, the freeze is still in effect. Under my bill, it would be totally removed by 1980 for Federal employees.

The following table illustrates the types of Federal employees affected by the pay freeze:

General schedule employees affected by the pay ceiling

Type of employee:	
General schedule	9,026
Similar to general schedule	781
Foreign service	1,589
VA-medical personnel	1,980
Scientific and technical personnel	2,125
Total	15,501

What has happened under the freeze? It has now crept down as far as GS–15 employees. With the October 1975 comparability increase, almost half of the Government's GS–15 employees are now frozen. Added to this are all GS–16's, GS–17's, and GS–18's. Thus, in many cases, individuals at five levels are earning the same salary. I have heard testimony from Government officials and have seen diagrams which show agency chiefs and bureau heads all earning the same salary.

The General Accounting Office has said that a $36,000 salary set in 1969 was eroded by inflation to $24,408 by May 1975. GAO says 1969 salary rates lost almost a third of their purchasing power by May 1975. By January 1977, GAO says:

Assuming CPI increases at the same average rate and no legislation is enacted, the purchasing power of Federal executive salaries will decrease by about 39 percent.

A 1969 salary of $36,000 would be $21,942 in purchasing power. While these salaries have remained stagnant for 7 years, the cost of living has increased by 50 percent. Non-Federal executive salaries have increased by 47 percent. Other Federal white-collar salaries, unfrozen, have increased by over 50 percent.

THE PAY FREEZE HURTS GOVERNMENT

What does this mean for Government? It has seriously hampered the Government's effort to recruit and retain high-caliber Federal officials, particularly scientific and medical personnel. What motivation is there to work for the Government when there is little hope of receiving a salary competitive with private enterprise? The Chairman of the Civil Service Commission has noted that critical jobs go unfilled because the private sector is more attractive. Executive retirements and resignations have doubled since 1969. Salary-frozen executives in the 55 to 59 age range retire at three times the normal rate than other employees in that age group.

A few examples: HEW has difficulty recruiting expert scientists and researchers. VA cannot attract top-flight physicians. Six individuals declined the

Library of Congress GS–17 position of senior specialist in taxation and fiscal policy because they were all earning higher salaries in their present employment. Six of the Treasury Department's top 12 officials departed in June 1975. The Under Secretary of the Treasury for Monetary Affairs resigned his $40,000 position. Two candidates would not accept HEW's position of Director of the National Institute on Aging because of the pay limitation; four administrative law judges at the Federal Trade Commission retired because of the salary ceiling. DOD has reported that 20 executives resigned, retired, or refused promotions because of the freeze. Another 22 declined to come with the Defense Department. Now we learn the Chairman himself of the Government's personnel agency, the Civil Service Commission, is leaving partly because of the freeze.

In addition to retention and recruitment difficulties the freeze has caused serious problems of compression. Some GS–15's through GS–18's are at the same salary; thus, one can find in an office individuals earning the same salary as their immediate supervisor. Since general schedule salaries have increased annually, with no similar increase in executive salaries, more and more general schedule employees "bump up" against the ceiling each year. Says GAO—

Salary compression seriously weakens two statutory pay principles of internal equity—equal pay for equal work and maintaining pay distinctions in keeping with work and performance distinctions.

There is no financial reward for taking on increased responsibilities, for advancing. To continue this acceleration of the freeze downward, locking in more and more GS employees, will, says GAO—

Reduce morale within the work force and have a negative impact upon the career incentives of employees entering the career service.

The Chairman of the Civil Service Commission has said:

Difficulties in recruiting and retraining high-caliber executives is measurable, but the effect of lost managerial talent on the quality of government is more difficult to quantify. . . . What we need is relief from an arbitrary salary ceiling on top executives, which in and of itself establishes a companion ceiling on career managers. Not just a one-time Band-Aid type of remedy, but an enduring procedure which will insure that the present conditions of salary compression do not recur.

My bill lifts the freeze from the rank-and-file general schedule employees over a 5-year period in $2,000 increments. It is my belief that it is unfair to tie career public employees' salaries to an arbitrary rate—totally unrelated to their merit or performance. An orderly equitable salary-setting process should be guaranteed. Salaries of rank-and-file Government workers should be separated from those of political appointees and free from Presidential whims. The Government must be stable; only a systematic salary system will insure that stability.

EXECUTIVE SALARIES

My bill does not "unfreeze" the 2,261 executive schedule employees in the executive branch or change the salary of other top personnel in the legislative and judicial branches. The fact that their salaries have been the same for 6 years is also unfair and severe. However, their salaries are set through a different procedure and should be treated differently. My bill makes two changes.

First, it removes these individuals from the annual comparability process which was designed to provide general schedule Federal employees annual adjustments to keep their salaries comparable with private industry. Public Law 94–82 linked these executives to the comparability procedure. I voted for it at the time because I felt it was necessary to give career Federal employees same small relief after the 6-year freeze.

However, time has shown me that was a mistake. Including top executive, legislative, and judicial personnel in this process "politicized" the Federal salary-setting system because the salaries of Members of Congress were part of the package. Under the comparability process the President can recommend an amount differing from that of his advisers which then can be rejected by one House of Congress, thus insuring the real comparability amount. The most politically unpalatable vote an elected official ever has to cast is a vote raising one's salary. We saw Congress turn it back on Federal employees last October when the Preisdent's 5 percent comparability adjustment was not overturned. I believe it is wrong to make rank-and-file Federal workers the victim of the cowardice of Members of Congress.

Additionally, I believe that the salaries of appointed and elected Government officials should be treated differently from those of Government employees. They are not career employees in the same sense. They take their job, in most cases knowing it will be a political tenure. Their salaries should be handled under a different system. The American Compensation Association agrees. Their organization told the President's panel—

Executives, as a group, should be classified and compensated under a separate pay structure. The pay structure should be such as to motivate outstanding lower echelon employees to achieve promotion to the executive ranks and to attract competent, qualified and experienced personnel from the private sector.

We have the basics of such a system now, the Quadrennial Commission procedure which makes recommendations to the President for adjusting executive salaries. The President then submits his recommendations to Congress in the next budget and they become effective, unless one House of Congress rejects them. Under my bill, the Presidnt would be required to appoint the members of the Commission by July 1, 1976 and by that date every 4 years thereafter.

The Commission would be required to report its findings and recommendations to the President by January 1 and the President would then have to include his recommended adjustments in the fiscal 1978 budget, to be submitted to Congress in January 1977. Reporting to Congress in January 1977 is in line with the President's intentions as outlined in his 1977 budget. My bill slightly speeds up a process scheduled to take place next year. It would be up to the Commission to come up with an amount and a scheme for adjusting top executive salaries. The recent report of the President's Panel on Federal Compensation has recommended that executive pay rates be increased and points out—

The appropriate body to develop precise pay rate recommendations is the Commission on Executive, Legislative and Judicial Salaries which is scheduled to be appointed in fiscal year 1977.

A PLAN FOR THE SALARY MESS

This bill rounds out my efforts to straighten out what I call the Federal salary mess. I have introduced several bills which include major revisions in the Federal salary-setting process that I believe are necessary: First, removing the President's authority to propose an alternative comparability amount, thus insulating rank-and-file Federal workers' salaries from politics (H.R. 9905); second, removing Members of Congress and Federal and judicial executives from the comparability process; third, removing the pay ceiling from general schedule employees; and, fourth, urging the Commission on Executive Legislative and Judicial Salaries to make recommendations on adjusting the salaries of top executives. I am confident that this plan will compensate all Federal employees in a fair, nonpolitical, objective and systematic manner.

A SOUND, STABLE GOVERNMENT

With enactment of this bill, Congress would be addressing a very basic problem affecting our Government. A fair, systematic, apolitical pay system which treats people with respect is vital to effective government. Our Federal workers have little incentive to aspire upward—to perform better—if there is no reward awaiting them. A strong motivation for the public service is not enough with a ravaging inflation eating away at stagnating salaries. The Federal Government, which touches the daily lives of all our citizens, should be staffed by competent and highly motivated career professionals. We must obtain and retain the best managers, scientists, and doctors to make the decisions involving vast sums of public money and to manage complex programs affecting the Nation's economy, welfare, and security. As long as we ignore these very basic salary problems, government and the American citizens will suffer.

CONSUMER PROTECTION AGAINST UNETHICAL DEBT COLLECTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, under legislation I am reintroducing today, the harassment and intimidation currently being suffered by consumers in the hands of unethical debt collectors will be strictly prohibited.

This new title VIII of the Consumer Protection Act—the Debt Collection Practices Act—was originally introduced in October and would for the first time comprehensively regulate the practices of

vestigated for the same purpose by any other committee of the House, and the chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 974 would fund the Committee on Agriculture. The resolution was introduced by the chairman of the committee, the distinguished gentleman from Washington (Mr. FOLEY), and by the distinguished gentleman from Virginia (Mr. WAMPLER), the ranking minority member.

Mr. Speaker, in this instance this committee had an unexpended balance for the first session of $422,939.23 which has reverted to the contingent fund. This resolution is fully supported by the majority and minority sides.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES OF COMMITTEE ON SMALL BUSINESS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1039 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on Small Business acting as a whole or by subcommittee, not to exceed $515,425 including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, this resolution, House Resolution 1039, was originally introduced by the distinguished chairman of the Committee on Small Business, the gentleman from Tennessee (Mr. EVINS), and by the gentleman from Massachusetts (Mr. CONTE), the ranking minority member.

This is a clean resolution bearing my name for the reason that we transferred the unexpended balance of $210,140.45 to the contingent fund. This resolution would fund the Committee on Small Business in the amount of $515,425.

Mr. Speaker, there is complete agreement on the resolution. It was reported unanimously by the subcommittee and the full committee.

Mr. Speaker, I move the previous question on the resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks on all of the resolutions just agreed to and, Mr. Speaker, I ask unanimous consent also that all Members may have 5 legislative days within which to revise and extend their remarks on all of the resolutions just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF OPEN HEARINGS AND FINAL REPORT OF SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 88) and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 88

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities five thousand additional copies of all parts of its public hearings and of its final report to the Senate.

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, Senate Concurrent Resolution 88 provides for the printing, for use of the Senate Select Committee on Intelligence Activities, of 5,000 additional copies of all parts of its open hearings and final report.

The select committee has held 21 open hearings which will result in an estimated 3,500 pages to be arranged by subject matter in approximately 7 separate volumes.

The length of the final report, however, cannot yet be estimated. Because of the range of investigations mandated by Senate Resolution 21 and the scope of the studies undertaken, it is contemplated that the final report will be prepared in 2 separate volumes of 500 pages each with 20 appended volumes of approximately 200 pages each.

Because requests for this committee's report and hearings have already exceeded the normal 1,000 copies allocated to committees, the select committee is asking for an additional 5,000 copies to meet this demand.

Mr. Speaker, I hope that this resolution is agreed to. I note that the resolution is supported by both the chairman of the select committee, Senator CHURCH, of Idaho, and the vice chairman, Senator TOWER, of Texas.

The Senate concurrent resolution was concurred in.

The motion to reconsider was laid on the table.

AMENDING RULES OF HOUSE OF REPRESENTATIVES TO PROVIDE THAT HOUSE MAY NOT CONSIDER ANY REPORT OF A COMMITTEE BILL, RESOLUTION, OR A REPORT OF A COMMITTEE OF CONFERENCE UNLESS COPIES OR REPRODUCTIONS HAVE BEEN AVAILABLE TO MEMBERS ON THE FLOOR AT LEAST 2 HOURS BEFORE SUCH CONSIDERATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 868 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 868

Resolved, That Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any report of a committee unless copies or reproductions of such report have been available to the Members on the floor for at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rule of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any report of the Committee on Rules dealing with the consideration of a bill.".

SEC. 2. Rule XXII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any bill or resolution unless copies or reproductions of such bill or resolution have been available to Members on the floor for

the gentleman from New Jersey [Mr. THOMPSON].

Mr. THOMPSON. Mr. Speaker, House Resolution 975 is the funding resolution for the Committee on Education and Labor in the amount of $4,320,000, for all purposes.

In the case of this committee, we have a unique situation in that the minority receives 5 percent of the total request. The full committee majority receives 25 percent of the total request, and each of the standing subcommittees has a separate allocation.

This and every allocation the minority and the full committee and on each subcommittee is fully funded.

Mr. Speaker, this resolution was unanimously approved.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF COMMITTEE ON WAYS AND MEANS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 970 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 970

Resolved, That, during the second session of the Ninety-fourth Congress, the expenses of investigations and studies to be conducted by the Committee on Ways and Means, acting as a whole or by subcommittee, not to exceed $2,115,000 including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $150,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), but the monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Ways and Means shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey [Mr. THOMPSON].

Mr. THOMPSON. Mr. Speaker, House Resolution 1015 is the funding resolution for the Committee on Banking, Currency and Housing in the amount of $2,079,113.

In this instance, Mr. Speaker, the committee had an unexpended amount for the first session of $467,176.47. Again, that amount was returned to the Treasury.

Mr. Speaker, this was fully supported by the chairman of the committee, the distinguished gentleman from Wisconsin [Mr. REUSS] and by the gentleman from Pennsylvania [Mr. JOHNSON], the ranking member.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON BANKING, CURRENCY AND HOUSING

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1015 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1015

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on Banking, Currency and Housing, acting as a whole or by subcommittee, not to exceed $2,079,113 including expenditures for the employment of investigators, attorneys, and clerical, and other assistants and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $125,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), but the monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Banking, Currency and Housing shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey [Mr. THOMPSON].

Mr. THOMPSON. Mr. Speaker, House Resolution 974 would fund the Committee on Ways and Means in the amount of $2,115,000.

This resolution was introduced by the gentleman from Oregon [Mr. ULLMAN] for himself and by the gentleman from Pennsylvania [Mr. SCHNEEBELI], the ranking member, who testified in its behalf.

It is my understanding that the ranking member is ill today, but we are authorized to state that he supports this resolution.

Mr. Speaker, this committee now has standing subcommittees, has taken a number of months to gear up, in the colloquial sense, and had an unexpended balance of $812,817.03, which has reverted to the Treasury.

This totally justifies this modest resolution.

Mr. Speaker, I move the previous question on this resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON AGRICULTURE

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 974 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 974

Resolved, That effective from the end of the first session to the end of the second session of the Ninety-fourth Congress, the expenses of the investigations and studies to be conducted by the Committee on Agriculture, acting as a whole or by subcommittee not to exceed $797,561.35, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $166,361.35 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being in-

at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rules of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any resolution reported by the Committee on Rules dealing with the consideration of a bill.".

SEC. 3. Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any report of a committee of conference unless copies or reproductions of such report have been available to Members on the floor for at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rules of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any resolution or report of the Committee on Rules relating to any report of a committee of conference.".

With the following committee amendment:

Strike all after the resolving clause and insert in lieu thereof:

That rule XI, clause 2(1)(6) of the Rules of the House of Representatives is amended by inserting after the first sentence the following: "Nor shall it be in order to consider any measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business, or any other committee in the case of a privileged resolution), unless copies of such report and the reported measure or matter have been available to the Members for at least two hours before the beginning of such consideration; *provided, however,* that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction."

SEC. 2. The second sentence of rule XXVIII, clause 2(a) of the House of Representatives is amended by striking all after the word "statement" and inserting in lieu thereof the following: "have been available to Members for at least two hours before the beginning of such consideration; *provided, however,* that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b). Rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction."

SEC. 3. The second sentence of rule XXVIII, clause 2(b) of the Rules of the House of Representatives is amended by striking all after the second comma and inserting in lieu thereof the following: "have been available to Members for at least two hours before the beginning of such consideration; *provided, however,* that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction."

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, this resolution is to be considered in the House which would preclude an amendment from being offered by any Member.

The SPEAKER. It is a rule that comes from the Committee on Rules. It is under the charge of the gentleman handling the resolution.

Mr. BAUMAN. So unless the gentleman yields for the purpose of an amendment, none would be in order?

The SPEAKER. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, what unanimous-consent request might be entertained in order to allow amendments to be offered generally? Would it be a request to consider it in the House as in the Committee of the Whole?

The SPEAKER. No. The gentleman from Florida controls the floor under the 1-hour rule in the House because this is a change in the rules brought to the floor by the Committee on Rules as privileged. Rules changes can be considered in the House.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. PEPPER).

(Mr. PEPPER asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, would the gentleman from Florida yield for a question at the outset?

Mr. PEPPER. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Does the gentleman intend to yield to anyone for the purposes of amendment?

Mr. PEPPER. No, I do not have authority from the Committee on Rules to yield to anyone for anything except debate in the consideration of this resolution.

Mr. BAUMAN. If the gentleman would yield further, I would say that when we amended the rules the last time I seem to recall the resolution was considered in the House as in the Committee of the Whole and all the Members had the right to offer amendments. What was the reason for precluding individuals from offering amendments today?

Mr. PEPPER. This resolution comes out from the Rules Committee in the exercise of its jurisdiction relative to the rules of the House and it comes out as a closed rule and therefore I have no authority in handling the rule to yield to Members except for the purposes of debate.

Mr. BAUMAN. I thank the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 868, as amended by the Committee on Rules, proposes to amend two rules of the House in order to insure that Members have an adequate opportunity, no less than 2 hours, to review reported measures, conference reports, and Senate amendments in disagreement.

House Resolution 868, as reported, would amend rule XI, clause 2(1)(6), the 3-day layover rule, to provide that no measure or matter reported by any committee—except the Committee on Rules with respect to order of business resolutions, and other committees with respect to privileged resolutions—may be considered unless copies of the measure have been available for at least 2 hours prior to consideration. The requirements of rule XI, clause 2(1)(6) do not apply to measures for the declaration of war, the declaration of a national emergency by Congress, or to congressional actions with respect to executive decisions or determinations which would become or continue to be effective unless disapproved or otherwise invalidated by one or both House of Congress. The proposed 2-hour availability requirement would likewise not be applicable to the consideration of such measures.

House Resolution 868 also amends rule XXIII, clause 2 (a) and (b), relating to conference reports, to prohibit consideration both of conference reports and of any amendment of the Senate to any measure reported in disagreement, unless copies of the report and statement of the managers have been available for at least 2 hours prior to consideration.

The amendments to these rules contain a proviso which states that the 2-hour requirement may be waived by the Committee on Rules and a resolution to that effect may be considered on the same day reported notwithstanding rule XI, clause 4(b) prohibiting consideration of a resolution from rules on the same day reported unless so determined by a two-thirds vote. The requirement could also be dispensed with by unanimous consent or under suspension of the rules.

The Committee on Rules held 4 days of hearings on this and similar resolutions. The committee amendment in the nature of a substitute was based on careful consideration of this issue. By its adoption the Members of this House will be assured of an opportunity to review measures on which they must vote. Mr. Speaker, I urge the adoption of House Resolution 868.

Mr. Speaker, may I just add that, having been a Member of the other body, I noticed here with some regret amendments are not available to Members in the House when they are considered by the House.

In the other body when a bill is being considered, all amendments are in printed form, available on the desks of the Senators, so that while the amendment is being considered, a Senator has the advantage of looking at the print of the amendment which is before him, unless in some special case an amendment of extraordinary order would be offered from the floor. So this measure today, I feel, is very important in furtherance of the desire of this House for Members to have the fullest opportunity to have the knowledge of what is being considered in the House.

Therefore, Mr. Speaker, believing it to be a very meritorious resolution, I urge adoption of House Resolution 868.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ANDERSON).

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr.

Speaker, I rise in reluctant opposition to House Resolution 868, the so-called 2-hour availability rule for bills, reports and conference reports. I say reluctant because I know the intentions of the gentleman from California (Mr. JOHN BURTON) were most sincere, genuine, and laudable in proposing these rules changes. He wanted to protect Members against legislating blindly and precipitously. Ordinarily, we on the minority side of the aisle would welcome such efforts since we so often seem to be the victims of last minute surprises sprung by the majority; it seems the minority, for some reason, is always the last to know what is going on. Such as the prerogatives of the majority. But I have come to the conclusion, after giving this matter a great deal of thought and study, notwithstanding the honorable intentions of the author of this resolution, that it could actually do more harm than good in terms of protecting the interests of Members, and moreover, that the resolution is simply not necessary to insure adequate protection. Let me explain.

As the gentleman from Florida (Mr. PEPPER) has already explained, the main purpose of these rules changes is to insure that Members will have advance access to written copies of bills, reports, and conference reports at least 2 hours before they are called up for consideration. Members are well aware that our House rules XI and XXVIII now require a 3-day layover of bills and conference reports respectively before they may be considered in the House. Both those rules state that the reports must be available to Members 3 days prior to their consideration in the House. The only exceptions, in the case of bills, are if they are: brought up under unanimous consent, to which any Member may object; under suspension of the rules, which requires a two-thirds vote; through a waiver of the 3-day rule by the Committee on Rules, which must first be adopted by a majority vote or through a blanket waiver of the 3-day rule applying to all bills brought up during a certain period of time, again which must first be adopted by a majority vote. Moreover, the House is doubly protected by clause 3 of rule XVI which reads, and I quote:

When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.

The explanatory footnote which follows that clause in section 778 of our House Rules Manual reads as follows:

It is one means by which the House protects itself from business which it does not wish to consider. . . . It may be raised against any bill which has been made a special order, unless the order provides for immediate consideration. . . . On a motion to go into Committee of the Whole to consider a bill the House expresses its wish as to consideration or not to decide on this motion.

In other words, Mr. Speaker, even if the House should adopt a special rule which waives the 3-day rule against a bill or conference report, any Member may still raise the question of consideration on the motion to resolve into the Committee of the Whole to consider the bill, and it takes a majority vote of the House to proceed with consideration.

The same situation applies with respect to the consideration of conference reports when the 3-day rule has been waived. Even though conference reports are highly privileged, the precedents are quite clear, and I quote

The question of consideration may be demanded against a matter of the highest privilege.

The only apparent exceptions being veto messages and reports and orders of business out of the Committee on Rules. So again, any Member who is not satisfied that the conference report has been available for a sufficient amount of time prior to consideration, whether 2 hours or 1 day, may force a vote on the question of consideration, and that conference report cannot be considered until a majority of the House votes to proceed with consideration.

Mr. Speaker, let me explain a situation which has become common in the waning days of a session with respect to conference reports. Clause 2 of rule XXVIII now states that the 3-day availability requirement on conference reports does not apply during the last 6 days of a session. Now then, unless the House has already adopted a resolution setting the date for adjournment, it is impossible to determine which are the last 6 days of the session, nor would such guesswork be permitted under a strict construction of that rule. So what has been done instead has been a request by the leadership that the Rules Committee report a resolution waiving the 3-day rule on conference reports for the remainder of the session. Such a request came to us in the last session on December 17, 1975, and the resolution requested read as follows:

That during the remainder of the first session of the 94th Congress it shall be in order to consider conference reports on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, Rule XXVIII; that it shall also be in order during the remainder of the first session of the 94th Congress for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1 Rule XXVII.

Now, interestingly enough, by waiving all of clause 2 of rule XXVIII, that resolution would also have waived another sentence which reads

Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor.

In other words, our existing rule in that second sentence of clause 2, says that even when the 3-day rule is waived, copies of the conference report and statement must still be available on the floor at the time of consideration. Recognizing this fact, and being aware of the concern of the gentleman from California as well as the interests of the minority, I offered the following amendment to that resolution, which was adopted:

Provided that copies of any measure or matter to be considered under the provisions of this resolution have been made available to Members prior to the consideration of such measure or matter. Notwithstanding this prior availability requirement, it shall nevertheless be in order for the House to proceed with consideration of any measure or matter under the provisions of this resolution if the House, by unanimous consent request or majority vote, agrees to proceed with such consideration

This rule, with my amendment, was adopted by the Rules Committee and the House. It effectively protected the interests of Members in this blanket waiver of the 3-day rule on conference reports by requiring prior availability of the conference reports before consideration; moreover, it required the prior availability of copies of bills brought up under suspension on any day for the remainder of the session, something which is not currently handled in the Burton rule My amendment also stated a right which already exists in the House, and that is that a majority may still vote to proceed with consideration of the matter, even though a copy of the matter is not available. Under the Burton rule, this would have to be rerouted through the Rules Committee in order to waive the 2-hour rule. Under my amendment, the House could save itself the time and trouble of waiting for the Rules Committee to report back by voting to proceed with consideration at that point.

Mr. Speaker, I appreciate that all this may seem terribly complex and confusing to Members; it is a very technical subject. The main point I have tried to make is that this rule is unnecessary given the double protection Members now have against being forced to vote on matters not in writing before them First, adequate protection can be provided in any special order which waives the 3-day rule on either bills or reports and I have already proved that point with my amendment to House Resolution 938 last December 17. And it would be my intention that any time a committee asks us for a waiver of the 3-day rule on either a bill or conference report, to insist that the prior availability requirement be placed in such a special order. And based on the overwhelming support for my amendment last December, I am sure the rest of the Rules Committee would adopt such a safeguard. But what if you do not trust the Rules Committee to protect your interests in such a way? Well, you first have the option of rejecting such a 3-day waiver if the report is not available at the time you vote on the rule You can insist during the 1-hour debate on the 3-day waiver rule that the rule be defeated or changed to require prior availability of the matter to be considered. But, second, even if the waiver rule is adopted without the prior availability safeguard, any Member can then force a vote on the question of whether to proceed with consideration of the bill or conference report. It therefore makes little sense to me to write yet a third safeguard, and one which can only be waived by unanimous consent or by going back through the Rules Committee if a point of order is sustained, when you are already doubly protected under our existing rules.

Mr. Speaker, it might be asked, why

should I go to all this trouble to object to yet another form of protection; why should I oppose what on its face would seem to be a relatively simple and noncontroversial addition to our House Rules? The answer is this: I fear that if we write this 2-hour prior availability requirement into our rules, it will be abused to the detriment of our best interests.

Let me explain how this can happen. If you happen to be sitting on a relatively controversial conference report and you are in an emergency situation or the session is drawing to a close, it may be to your advantage to hold off releasing the text of that report until just before its consideration in the House. So, what you do first, under the terms of this rule, is wait until the emergency deadline is almost on you before you finaly vote the bill out of conference. Then, you go to the Rules Committee and ask for a waiver of the 3-day availability rule. Now, under present circumstances, you might not get that waiver if the report is not printed at the time you request the special rule. But, with the new Burton rule, you can make the case that Members will still be protected by the 2-hour availability rule. And even though you could conceivably file a copy of the report in the CONGRESSIONAL RECORD of that day, so it would be available to all Members in the RECORD they receive the next morning, you do not do so. Instead, all you have to do is to make sure that, if the conference report is expected to come up at 2 p.m. the next afternoon, copies are delivered to the documents room by noon on the day it is to be considered. In other words, what I am saying is that, while the 2-hour rule may be designed to protect the interests of Members, it could actually be used to insure that Members will not have adequate time to study the report in advance, even though it could have been made available in the pages of the RECORD on the previous day. This rule, in short, is a clear invitation to committees to ask for more waivers of the 3-day rule on bills and conference reports, using the fallback justification that Members would still be protected by the 2-hour rule. That fallback justification does not now exist in our House rules, and I do not think we should give our committees that potential for abuse of our interests through the adoption of this rule. As I have said, we are already doubly protected by the option of rejecting any rule waiving the 3-day rule on a bill or report not yet available at the time that rule is considered; and, moreover, we are protected by the majority vote which may be demanded by any Member on the question of proceeding to consideration of that bill or report.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I have great respect for the gentleman from Illinois. That is why I am a little upset with the gentleman's reluctant opposition; but I thought matters from conference were considered in the House and not in the Committee of the Whole.

Mr. ANDERSON of Illinois. Perhaps I can explain, if the gentleman will permit me to continue and complete my explanation of that particular rule.

The same situation, I would say in answer to the gentleman from California, does apply with respect to the consideration of conference reports when the 3-day rule has been waived. That is true ordinarily. That is true for what the gentleman just stated, what the gentleman just asked about in the question.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I very much appreciate the gentleman's yielding to me.

I am impressed by the analysis the gentleman has made, and I agree with him.

I thought at first, as I looked at this rule, that it made some sense, and that it gave us yet another safeguard. The more I have looked at it, however, the less I am impressed that it, in fact, makes sense. I think it is open. I think there is some chance of mischief on the part of the committees to take away the rights we now enjoy that now insure that there is some priority availability of reports and bills.

Mr. Speaker, let me ask one question of the gentleman from Illinois (Mr. ANDERSON). There is a provision on page 3 of the resolution which says this:

Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction.

Does that mean to say, if I read it correctly, that the two-thirds rule is then abolished insofar as the resolution reported by the Committee on Rules is concerned, so that it takes only a simple majority vote to adopt the rule, waiving this 2-hour rule on the same day?

Mr. ANDERSON of Illinois. Mr. Speaker, frankly, I am in some doubt. I think one could well and properly put that construction on this language. I had not considered that particular point.

It may be that the gentleman from Wisconsin has pointed to yet another reason why we should be a little bit slow about adopting the precise language of the proposed rules change. I may be wrong, but I think one could draw the inference or make that interpretation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I also want to concur with the excellent statement the gentleman has made, but the point raised by the gentleman from Wisconsin (Mr. STEIGER) is what has concerned me most about this resolution.

I am in total sympathy with the 2-hour requirement the gentleman from California (Mr. JOHN L. BURTON) embodies in his original resolution, but the amendment by the Committee on Rules, specifically the language cited by the gentleman from Wisconsin (Mr. STEIGER), gives rise to my concern. Although this waiver is limited just to the rules change now before us, we are for the first time, at least as far as the precedents I can find show, waiving the two-thirds requirement for same-day consideration. The gentleman will recall, in many instances during his long service here and in many instances in the brief time I have been here we have seen situations where this two-thirds requirement to bring up a resolution from the Committee on Rules on the same day on which it is reported has thwarted very bad pieces of legislation, forcing bills to lay over at least a day, and then more adequate consideration was subsequently given to the legislation.

However, we are breaking precedent here in allowing same-day consideration by a majority vote even though it is limited to just this new proposed rule. I would suspect that for the convenience of the majority, we might see other rules changes suggested, reducing the two-thirds requirement for same-day consideration and thereby damaging, possibly, in the future, in many instances, the rights of the minority.

As the gentleman from Illinois (Mr. ANDERSON) well knows, a minority consists of over 200 Members on a natural gas bill. It can be a racial minority or it can be a political minority; and all of our rights might well be jeopardized.

Mr. ANDERSON of Illinois. Mr. Speaker, there are no more careful and conscientious students of the rules than the gentleman from Maryland (Mr. BAUMAN), who has just spoken, and also the gentleman from Wisconsin (Mr. STEIGER), who preceded him.

I think they have made some excellent points in their contribution to the debate on why we should not adopt the resolution now before us.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. JOHN L. BURTON).

(Mr. JOHN L. BURTON asked and was given permission to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman from Florida (Mr. PEPPER) for yielding.

First of all, I would really like everyone to understand what this does. The measure has been in the Committee on Rules since March, and I would have been delighted if some of the problems that somebody seems to think he finds now would have been raised during that time.

Second, yes, it does provide that the Committee on Rules can waive this rule on the same day. The gentleman from Missouri (Mr. BOLLING) felt that the House must be able to work its will in a majority vote, but at least a majority of the House would have to vote. They do not care whether they see the bill in print or not before they vote on it.

I was elected to this body in June of 1974.

In December, on one night—and those Members who were here may remember this—we voted on the trade bill which was this thick. That was in for 2 years, and there was not a copy in print. It was

within the rules, every rule that the gentleman from Illinois (Mr. ANDERSON) talked about. It was within the rules.

We voted on a social services bill this thick, and there was not a copy in print. We voted on a needles-and-pins tariff bill that was only this thick and that had a goodie in it for Members of the House and Members of the Senate. We in the House did not even know that when we voted on it, and then we had to face our constituents who were asking why we gave a tax break to people who contributed to some newsletter fund. That bill was not in print either.

Mr. Speaker, this bill does not supersede any of the longer time periods.

It is a safeguard. It says that before we vote on something, it ought to be in print.

What is wrong with that, Mr. Speaker? Who is going to stand up when the majority leader has a privileged resolution to waive a longer period of time to expedite business? We do not need a 7-day layover. We do want to expedite at the end of a session; but when we waive that, we waive it all. We do not consider conference reports, which are where most of this happens, in the Committee of the Whole, when there is a motion. I think it is done in the "House House," and if conference reports are in order at any time, they are in order when the Speaker recognizes the chairman who is going to present the conference report. That is kind of a nebulous vote.

Mr. Speaker, what are we voting on? We are voting on whether or not to take up the conference report. We say, "Aye, take it up."

What are we voting on? We are voting on whether or not we want to see the bill in print. That is an issue that is really an issue, and it is something that people can understand when they come in and there is a meeting with constituents.

If we want to take up a conference report, what is wrong with that? "Aye," we say.

Mr. Speaker, this brings us down to something that the Committee on Rules has suggested or that the gentleman from Missouri (Mr. BOLLING) has suggested should be able to be waived in 1 day by at least a conscientious vote by a majority of the Members of the House on one issue, and they want to see the bill in print. We want to see the bill in print.

Let us take the trade bill. It was in the Congress for 2 years; and when we voted on it, we did not have a copy of it.

This year, when we tried to take up the tax-reduction bill, there was almost a rebellion on the floor of the House. By unanimous consent, the gentleman from Pennsylvania (Mr. SCHNEEBELI) and the gentleman from Oregon (Mr. ULLMAN) had 2 hours of special orders to get the bill in print.

I do not think that is the way to do business.

This thing does one thing and one thing only and I do not understand how everybody can be so upset. I do agree somewhat with my friend the gentleman from Maryland (Mr. BAUMAN). I would like to see a two-thirds vote before the Congress of the United States votes on an issue that they cannot even read.

I was persuaded by the logic of the argument and the votes in the Committee on Rules that maybe the majority of the House should vote. I do not care if somebody wants to say, "I will vote on it whether I have read it or not," or if the majority wants to do it that way, because I know how I am going to vote.

Personally I have the utmost respect for the distinguished gentleman from Illinois (Mr. ANDERSON) and really what he says seems relevant, the only argument one could make is maybe that we should have a two-thirds vote, but the other way of that is that maybe the majority of the House should be able to work its will. If the majority of the House wants to catch an airplane and not read the bill, then they can vote on it. But when the major provisions are waived, just to expedite the business of 3 days or 7 days, and to wipe out all of the other holding patterns does not make much sense. It is very simple, the thing of it is we ought to have the bill before us in print, not merely in the document room but available to the Members on the floor.

The SPEAKER. The time of the gentleman has expired.

Mr. PEPPER. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. BURTON).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to compliment the gentleman from California for the effort that the gentleman has made in this matter. I think that it is a matter of parliamentary importance.

However, Mr. Speaker, the gentleman from Maryland would like to ask, having read the committee amendment, does not the gentleman from California feel that if the committee amendment is defeated, which we have the right to do in the full House, that then the gentleman's original language would be far preferable. It would still preserve the two thirds vote requirement. In order to have the original position of the gentleman before us we could simply vote the committee amendment down.

Mr. JOHN L. BURTON. I would tell the gentleman from Maryland that we would not have a chance to vote on the measure again. The measure has been in the committee since March. I spent a lot of time on it, and I did what I thought best. I attempted to address all of the problems and also the problem that the gentleman from Missouri (Mr. BOLLING raised, that had a lot of merit to it because it seemed to have a lot of votes for it in the committee. It is something that maybe we should do, and that is that a majority in the House should be able to work its will. There again, if we think it is the best way we do it, then we can vote for it. We can vote to say that we do not care if the bill is in print.

As I say, I would have liked to have seen it done in a better way, but I think this is a safeguard that we do not have now. Under every rule we have had, where it says that we have got to have something in print, or we can say that we waive the 3-day rule and the 7-day rule, if that is the only way that the Members can get to it.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I would observe that the matter is now before us in the House, and can be subject to a rollcall vote on the committee amendment. The committee amendment could be defeated and then the bill could pass as the gentleman from California originally suggested.

Mr. JOHN L. BURTON. Mr. Speaker, I say this, I say that this is a good measure.

If the majority had really wanted to run over the minority, they would be able to pass a rule to allow the majority to do anything. They could do that but they have not done so.

Further, I did not know that the world was going to come to an end, and there would be a bill and, my God, the Xerox machine broke down, my God, what are we going to do?

As I say, the majority ought to be able to work its will, although originally I did think the majority of the Members of the House could vote to say, "We do not want to see what we are voting on next."

So I think that this is a pretty good protection.

I agree with the gentleman from Maryland that there are some things that I would like to see done better, but I really think this is basic to our legislative process if a bill is pending, it is in the works. And further it is not as complicated as the distinguished gentleman from Illinois (Mr. ANDERSON) said, under the present rules, without question, a conference committee could hold on to a bill until the last minute, then bring it out, and say, "This is the social security bill, and you had all better vote on it before all the widows and orphans lose their money and who are holding their breath waiting for its passage."

Mr. PEPPER. Mr. Speaker, I would just add this. The Committee on Rules had 4 days of hearings on this matter and concluded that, after fair consideration of the measure by the House, it should be adopted.

Mr. Speaker, I move the previous question on the committee amendment and the resolution.

The previous question was ordered.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 107, not voting 67, as follows:

[Roll No. 71]

YEAS—258

Abzug	Gonzalez	Myers, Pa.
Adams	Goodling	Natcher
Addabbo	Green	Neal
Alexander	Gude	Nedzi
Allen	Guyer	Nichols
Anderson, Calif.	Haley	Nowak
	Hall	Oberstar
Andrews, N.C.	Hamilton	Obey
Andrews, N. Dak.	Hanley	O'Hara
	Hannaford	Ottinger
Annunzio	Harkin	Passman
Ashley	Harris	Patten, N.J.
Badillo	Hawkins	Patterson, Calif.
Baldus	Hayes, Ind.	
Baucus	Heckler, Mass.	Pattison, N.Y.
Beard, R.I.	Hefner	Pepper
Bedell	Helstoski	Peyser
Bennett	Henderson	Pickle
Bergland	Hicks	Pike
Bevill	Hightower	Poage
Biaggi	Holland	Preyer
Biester	Holtzman	Price
Bingham	Howard	Randall
Blanchard	Howe	Rangel
Blouin	Hubbard	Rees
Boggs	Hughes	Reuss
Bonker	Hungate	Richmond
Bowen	Ichord	Rinaldo
Brademas	Jarman	Roberts
Breaux	Jenrette	Roe
Breckinridge	Johnson, Calif.	Rogers
Brinkley	Jones, Ala.	Roncalio
Brodhead	Jones, N.C.	Rooney
Brooks	Jones, Okla.	Rosenthal
Brown, Calif.	Jones, Tenn.	Roush
Burke, Mass.	Jordan	Roybal
Burleson, Tex.	Kastenmeier	Runnels
Burlison, Mo.	Kazen	Russo
Burton, John	Ketchum	Ryan
Burton, Phillip	Keys	St Germain
Byron	Koch	Santini
Carr	Krebs	Sarasin
Chappell	Krueger	Sarbanes
Chisholm	LaFalce	Scheuer
Cleveland	Lehman	Schroeder
Collins, Ill.	Levitas	Seiberling
Corman	Litton	Sharp
Cornell	Lloyd, Calif.	Shipley
D'Amours	Lloyd, Tenn.	Shuster
Daniels, N.J.	Long, La.	Simon
Danielson	Long, Md.	Sisk
Davis	McCloskey	Slack
Delaney	McCormack	Solarz
Dellums	McFall	Spellman
Derrick	McHugh	Staggers
Dingell	McKay	Stark
Dodd	McKinney	Steed
Downey, N.Y.	Madden	Stokes
Downing, Va.	Madigan	Stratton
Drinan	Maguire	Studds
Duncan, Oreg.	Mahon	Sullivan
Early	Mann	Symington
Edgar	Martin	Taylor, N.C.
Edwards, Calif.	Mathis	Thompson
Eilberg	Matsunaga	Thornton
Emery	Mazzoli	Tsongas
English	Meeds	Ullman
Evans, Colo.	Melcher	Van Deerlin
Evans, Ind.	Meyner	Vander Veen
Evins, Tenn.	Mezvinsky	Vanik
Fary	Mikva	Waggonner
Fascell	Milford	Waxman
Fisher	Miller, Calif.	Weaver
Fithian	Mills	Whalen
Flood	Mineta	Whitten
Florio	Minish	Wilson, C. H.
Flowers	Mitchell, Md.	Wilson, Tex.
Foley	Moffett	Wirth
Ford, Mich.	Mollohan	Wright
Fountain	Montgomery	Yates
Fraser	Moorhead, Pa.	Yatron
Frenzel	Morgan	Young, Alaska
Fuqua	Moss	Young, Fla.
Gaydos	Mottl	Young, Ga.
Giaimo	Murphy, Ill.	Young, Tex.
Gibbons	Murphy, N.Y.	Zablocki
Ginn	Murtha	Zeferetti

NAYS—107

Abdnor	Bafalis	Brown, Ohio
Anderson, Ill.	Bauman	Broyhill
Archer	Beard, Tenn.	Buchanan
Armstrong	Broomfield	Burke, Fla.
Ashbrook	Brown, Mich.	Butler
Carter	Heinz	Railsback
Cederberg	Hillis	Regula
Clancy	Holt	Rhodes
Clausen, Don H.	Horton	Robinson
	Hutchinson	Ruppe
Cochran	Hyde	Satterfield
Cohen	Jeffords	Schulze
Collins, Tex.	Johnson, Colo.	Sebelius
Conable	Johnson, Pa.	Shriver
Conlan	Kasten	Sikes
Conte	Kelly	Skubitz
Coughlin	Kemp	Smith, Nebr.
Daniel, Dan	Kindness	Spence
Daniel, R. W.	Latta	Stanton, J. William
Derwinski	Lent	
Devine	Lott	Steelman
Dickinson	McClory	Steiger, Ariz.
du Pont	McCollister	Steiger, Wis.
Edwards, Ala.	McDade	Symms
Fenwick	McDonald	Taylor, Mo.
Findley	McEwen	Thone
Fish	Michel	Treen
Forsythe	Miller, Ohio	Vander Jagt
Frey	Mitchell, N.Y.	Walsh
Goldwater	Moore	Wampler
Gradison	Moorhead, Calif.	Whitehurst
Grassley		Wiggins
Hagedorn	Mosher	Wilson, Bob
Hammer-schmidt	Myers, Ind.	Wydler
	Pressler	Wylie
Hansen	Pritchard	
Harsha	Quie	
Hechler, W. Va.	Quillen	

NOT VOTING—67

Ambro	Flynt	Pettis
Aspin	Ford, Tenn.	Riegle
AuCoin	Gilman	Risenhoover
Barrett	Harrington	Rodino
Bell	Hays, Ohio	Rose
Boland	Hébert	Rostenkowski
Bolling	Hinshaw	Rousselot
Burgener	Jacobs	Schneebeli
Burke, Calif.	Karth	Smith, Iowa
Carney	Lagomarsino	Snyder
Clawson, Del	Landrum	Stanton, James V.
Clay	Leggett	
Conyers	Lujan	Stephens
Cotter	Macdonald	Stuckey
Crane	Metcalfe	Talcott
de la Garza	Mink	Teague
Dent	Moakley	Traxler
Diggs	Nix	Udall
Duncan, Tenn.	Nolan	Vigorito
Eckhardt	O'Brien	White
Erlenborn	O'Neill	Winn
Esch	Patman, Tex.	Wolff
Eshleman	Perkins	

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.
Mr. Ambro with Mr. AuCoin.
Mr. Cotter with Mr. Gilman.
Mr. Hays of Ohio with Mr. Harrington.
Mr. Macdonald of Massachusetts with Mr. Aspin.
Mr. Nix with Mr. Burgener.
Mr. O'Neill with Mr. Stuckey.
Mr. Patman with Mr. Winn.
Mr. Rodino with Mr. Snyder.
Mr. Rostenkowski with Mr. Stephens.
Mr. James V. Stanton with Mr. Talcott.
Mr. Teague with Mr. Lagomarsino.
Mr. White with Mr. Traxler.
Mr. Vigorito with Mr. Udall.
Mr. Wolff with Mr. Landrum.
Mr. Karth with Mr. Del Clawson.
Mr. Diggs with Mr. Duncan of Tennessee.
Mrs. Burke of California with Mr. Eckhardt.
Mr. Barrett with Mr. Perkins.
Mr. Boland with Mr. Crane.
Mr. Carney with Mr. O'Brien.
Mr. Clay with Mr. Erlenborn.
Mr. Dent with Mr. Lujan.
Mr. de la Garza with Mr. Leggett.
Mr. Conyers with Mr. Esch.
Mr. Flynt with Mr. Smith of Iowa.
Mr. Ford of Tennessee with Mr. Eshleman.
Mr. Nolan with Mr. Schneebeli.
Mr. Moakley with Mr. Rousselot.
Mrs. Mink with Mr. Rose.
Mr. Metcalfe with Mr. Risenhoover.
Mr. Riegle with Mrs. Pettis.

Mr. KRUEGER changed his vote from "nay" to "yea."

Mr. ASHBROOK changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution to amend the Rules of the House of Representatives to provide that the House may not consider any report of a committee, bill, resolution, or a report of a committee of conference unless copies or reproductions have been available to Members at least 2 hours before such consideration."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT, SUNDAY, FEBRUARY 29, 1976, TO FILE A REPORT ON H.R. 11124

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight, Sunday, February 29, 1976, to file the committee report on H.R. 11124, the Medical Device Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONTINUANCE OF CIVIL GOVERNMENT FOR TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 12122) to amend section 2 of the Act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and it is not my intention to object, I just want to advise the House the chairman of the committee, the gentleman from California (Mr. PHILLIP BURTON), has cleared this with the minority, and we are in concurrence with this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12122

A bill to amend Section 2 of the Act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 2 of the Act of June 30, 1954 (68 Stat. 330), is amended by deleting "plus such sums as are necessary, but not to exceed $10,000,000, for each of such fiscal years, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies", and inserting in lieu thereof the following: "for fiscal year 1976, $80,000,000; for the period beginning July 1, 1976, and ending September 30, 1976, $15,100,000; for fiscal year 1977, $80,000,000; and such amounts as were authorized but not appropriated for fiscal year 1975, and up to but not to exceed $8,000,000 for the construction of such buildings as are required for a four-year college to serve the Micronesian community, plus such sums as are necessary, but not to exceed $10,000,000, for each of such fiscal years, or periods, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies, which amounts for each such fiscal year or other period shall be adjusted upward or downward and presented to the Congress in the budget document for the next succeeding fiscal year as a supplemental budget request for the current fiscal year, to offset changes in the purchasing power of the United States dollar by multiplying such amounts by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year numerically preceding the fiscal year or other period for which such supplemental appropriations are made, and dividing the resulting product by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year 1974."

SEC. 2. The laws of the United States which are made applicable to the Northern Mariana Islands by the provisions of Sec. 502(a)(1) of H.J. Res 549, as approved by the House of Representatives and the Senate, except for the Micronesia Claims Act as it applies to the Trust Territory of the Pacific Islands, shall be made applicable to Guam on the same terms and conditions as such laws are applied to the Northern Mariana Islands.

SEC. 3. There is hereby authorized to be appropriated such amounts as may be necessary (in addition to amounts previously authorized to be appropriated) for the purpose of making full payments of awards under title II of the Micronesian Claims Act of 1971, Public Law 92-39.

SEC. 4. (a) The President is hereby authorized to extend to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Mariana Islands District and the other Districts of the Trust Territory of the Pacific Islands, all Federal programs providing grants, loan, and loan guarantee or other assistance to the States unless he determines that such extension is inconsistent with the purposes of the statutory authorization under which such assistance is provided or unless such extension is disapproved by resolution of either House of Congress as provided in subsection (b).

(b) The President shall transmit to the Congress notice of any extension action taken under subsection (a) and any such action shall take effect at the end of the first period of sixty calendar days of continuous session of Congress after the date of which the notice is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor such extension. For purposes of this subsection, passage of such resolution shall be subject to the same procedures as apply in the case of resolutions disapproving government reorganization plans under Chapter 9 of Title 5 United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING IN ORDER ON TUESDAY, JUNE 15, 1976, AUTHORITY FOR SPEAKER TO DECLARE A RECESS FOR COMMEMORATION OF FLAG DAY

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, Monday June 14, 1976, will mark the 199th anniversary of Flag Day. For many years the House has commemorated Flag Day here in the House Chamber by appropriate ceremonies.

June 14 falls on Monday this year, but inasmuch as the U.S. Navy Band which is scheduled to perform at this Flag Day's observance has a commitment on that day which cannot be canceled, I ask unanimous consent that it may be in order on Tuesday, June 15, 1976, for the Speaker to declare a recess for the purpose of observing and commemorating Flag Day in such manner as the Speaker may deem appropriate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF COMMITTEE ON ARRANGEMENTS FOR FLAG DAY CEREMONIES

The SPEAKER. The Chair will state for the information of the House that after consultation with the distinguished minority leader, the Chair has informally designated the following Members to constitute a committee to make the necessary arrangements for appropriate ceremonies in connection with the unanimous consent agreement just adopted. The gentleman from Alabama, Mr. NICHOLS; the gentleman from Oklahoma, Mr. RISENHOOVER; the gentleman from Tennessee, Mr. BEARD; and the gentleman from Maine, Mr. EMERY.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to whether he is in a position to inform the House as to the program for the balance of the week and for next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his inquiry.

Mr. RHODES. I yield to the distinguished acting majority leader.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today. Upon announcement of the program for next week, I will ask unanimous consent to go over until Monday.

Mr. Speaker, the program for the House for next week is as follows:

On Monday we will call the Consent Calendar, and we will consider bills under suspension of the rules as follows:

H.R. 8991, Community Services Act technical amendments;

H.J. Res. 296, International Petroleum Exposition; and

H.R. 11700, New York public employment retirement systems.

The votes on suspensions will be postponed until the end of all suspensions.

On Tuesday, we will call the Private Calendar and the Suspension Calendar. At this time we have no bills for the Suspension Calendar.

The House will consider H.R. 10760, black lung benefits reform, under an open rule with 2 hours of debate.

On Wednesday the House will consider H.R. 11963, international security assistance, subject to a rule being granted.

On Thursday the House will consider H.R. ———, foreign assistance appropriations, fiscal year 1976, subject to a rule being granted; and

H.R. 11124, medical device amendments, subject to a rule being granted.

Mr. Speaker, I am able to advise the House that there will be no session on Friday.

Conference reports, of course, may be brought up at any time, and any further program will be announced later.

Mr. RHODES. Mr. Speaker, as far as the International Security Assistance Act is concerned, the program states that it is subject to a rule being granted. Therefore, I understand it will also be necessary to obtain a rule for the consideration of that appropriation bill, and, if so, will the gentleman inform us as to why that will be required?

Mr. McFALL. Yes, that will be necessary, Mr. Speaker, that will be required for the reason that the authorization bill will not yet have been signed; it would have just been passed presumably by the House the day before, and for that technical reason it will be necessary to have a rule granted for the consideration of the appropriation bill.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 1, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

tion issuing from the Banking Committee is the Home Mortgage Disclosure Act of 1975. It requires that banks provide the public with information about the dispersal of mortgage credit in communities. Class action groups demanded this tool as a means of encouraging financial institutions to lend where social interest dictates, regardless of the risk factor. Again, the appealing justification for this demand—the need to save deteriorating neighborhoods—was accepted by Congress. But ironically enough, Congress is also deeply concerned about the problem of bank failures.

When asked whether bank failures could be totally eliminated through regulation, the Comptroller of the Currency replied in a recent hearing that if it were possible, it would be at a cost beyond conception. He added further that risky loans of all types would have to be prohibited. And in considering the value of a failure-free banking system as guaranteed by the strictest possible regulation, we have to consider as well the effect of a no-risk loan policy on the striving small businessman.

I have given examples of legislation to protect the consumer from business. Now let me proceed with an example of equally questionable legislation to protect small business itself.

Before Christmas, Congress acted to repeal the statutory bases for the fair trade laws. To summarize briefly, the fair trade laws allow a manufacturer to set a minimum price at which his product may be sold. It is legalized price fixing.

Enthusiasm for this concept developed during the Great Depression. Retailers mistook falling prices for the source of the economic depression rather than the result. They lobbied vigorously for legislation designed to give the States the right to protect them from predatory pricing and cutthroat competition.

The experience of the intervening years has refuted the two main propositions on which the fair trade laws were based. First, the proponents believed that additional revenues obtained as a result of higher fixed prices would be captured by the retailers themselves. To the contrary, anticipated profits were swiftly eaten away by an expensive competition in services. Second, proponents believed that consumers are insensitive to the retail price and would not reduce the volume of their purchases. Instead, a 1969 study by the Department of Justice established the fact that stores in fair trade States almost universally have a significantly lower volume of retail sales than stores in free trade States. Finally, a 1975 Federal Trade Commission analysis found that—

> There is simply no evidence to support the contention that the survival of small business in America depends on fair trade.

The same study found that the rate of growth of small retail stores was 35 percent higher in free trade States. And during the years in which this experiment in price regulation was being conducted, the consumer had to pay anywhere from 19 to 37 percent more on purchase items.

In all cases, the effort to legislate a perfect society and to stabilize it through regulation is expensive for both business and the consumer. However, the true tragedy of the situation is, as DeTocqueville predicted, an overwhelming preoccupation with trivia that enervates and stupefies the people. The smallest act, whether private or commercial, becomes mired in endless official requirements, so that the quality of life itself deteriorates. We are oppressed with multiple anxieties. We believe less in the will of the people to conduct themselves in fair, decent, and responsible fashion unless forced to do so.

The circumstances of life are simply not perfectable by regulatory efforts or otherwise, and we have all discovered to our own detriment how much damage bureaucratic optimism in this regard can do. We are all in the soup, but small business has the greatest difficulty in keeping its head above the floating roughage. It was for him that the 50-percent increase in the Federal reporting burden from December 1967 to June 1974 was most onerous. It is for him that occupational safety and health requirements, medicare and medicaid programs, environmental protection regulations, and equal employment opportunity compliance are most burdensome. The FTC, SEC, FPC, ICC, FCC, Departments of Agriculture, Commerce, HEW, Interior, Justice, Labor, Transportation, and Treasury establish controls that affect him daily. It is his spirit of innovation that is most likely to be stifled by the fact that it takes $7 million and 7 years to get a new pesticide on the market.

Federal regulation does affect the quality of our lives and the vitality of our economy. However, the substantial case against Federal regulation does not merit the conclusion that all of it is bad. As Dr. Murray L. Weidenbaum explained in Government-Mandated Price Increases:

> As a general proposition, a society—acting through its government—can and should take steps to protect consumers against rapacious sellers, individual workers against unscrupulous employers, and future generations against those who would waste the nation's basic resources. But, as in most things in life, sensible solutions are not matters of either/or, but rather of more or less. Thus, we may enthusiastically advocate stringent and costly government controls over industry to avoid infant crib deaths without simultaneously supporting a plethora of detailed federal rules and regulations which . . . deal with the size of toilet partitions, the color of exit lights, and the maintenance of cuspidors.

It is not necessarily the case that if a little regulation is good, more is even better. When regulation has destroyed the individual's ability to exercise his own judgment and when it has eliminated all the decisionmaking prerogatives of business, then more has gone far beyond too much.

Perhaps we should go back to the wisdom of Socrates himself, who said that "By far the most useful rule in life is nothing to excess."

In conclusion, let me refer to an editorial in Monday's Washington Post that caught my eye. The article was concerned with unsatisfactory performances of high school graduates on basic proficiency tests. The author asked:

> What, at a minimum, ought a child be able to do after 12 years in the public schools?

It is a national dilemma. According to a general consensus, there are certain basic skills which a student must acquire in order to have a minimal chance of survival in our society. As pointed out in the article, one of those basic skills is the ability to fill out an application form.

How ironic that in a nation of such wealth and opportunity, such achievements in science and technology, such ready accessibility to an extraordinary heritage of literature and history and philosophy, that the ability to fill out a simple form should become a standard of achievement and a prerequisite for survival. Ours shall not be known as the golden age, the ice age, the dark ages, the age of enlightenment, or the age of reason. Ours shall be known as the age that nearly smothered under the bounty of what must surely have become in recent years the most profitable industry in the history of mankind. Ours will be known as the paper age.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized for not to exceed 15 minutes.

Mr. HANSEN. Mr. President, I yield to my distinguished colleague from Georgia (Mr. NUNN).

The PRESIDING OFFICER. The Senator from Georgia is recognized.

S. 3076—PAPERWORK REVIEW AND LIMITATION ACT OF 1976

Mr. NUNN. I thank my colleague from Wyoming, and I shall take a very brief amount of time.

I congratulate those who are participating in this colloquy. I particularly congratulate the final statement by the Senator from Texas that this will be known as the paper age, That leads me into my comments regarding the paperwork bill that Senator ROTH from Delaware and I are now introducing which, I hope, will begin to reverse the tide.

Mr. President, on behalf of the distinguished Senator from Delaware (Mr. ROTH) and myself and others, I am introducing today the Paperwork Review and Limitation Act of 1976, a bill which is designed to improve congressional oversight of the paperwork requirements of Federal agencies.

The Senator from Delaware (Mr. ROTH) and I have worked on this legislation for some time—and we have also been joined by Senator MCINTYRE of New Hampshire as a prime author. We are joined in sponsoring this legislation by the distinguished Senators from Kentucky (Mr. HUDDLESTON), Florida (Mr. CHILES), Arizona (Mr. FANNIN), and Ohio (Mr. TAFT), all of whom have shown great interest and leadership in reducing the burden of Federal paperwork on private individuals and enterprises.

This bill is aimed at correcting one of the chief causes of the Federal paperwork burden—the Congress itself.

Each year we pass new legislation

Under the previous order, the Senator from Texas is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. TOWER. I yield.

Mr. ROBERT C. BYRD. Mr. President, how many orders remain for today?

The PRESIDING OFFICER. Three more 15-minute orders, and the Senator from Idaho has a 10-minute order.

Mr. ROBERT C. BYRD. Do I have an order, also?

The PRESIDING OFFICER. That includes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 15 minutes allotted to me may be utilized by any Senator who wishes to utilize all or part of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders, if such conclusion occurs prior to 2:30 p.m. today, the Senate stand in recess until 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr President, I ask unanimous consent that the time consumed by the Senator from West Virginia not be charged against me.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS AND FEDERAL REGULATION

Mr. TOWER. Mr. President, we must remember with nostalgia that there once was a time when the small businessman had a bright future in our country. Early in our history, his horizons were unlimited. His services to a populace cut off from the luxuries it had enjoyed in another country were appreciated. His education of a citizenry versed in only the most minimal consumption was rewarded. In this climate of respect and encouragement, he flourished beyond his wildest dreams.

However, even then there was a foreign observer who foresaw the fate now unfolding for the small businessman. The French historian Alexis de Tocqueville knew that a certain kind of despotism is possible even in a democracy. He described it as follows:

> Above this race of man stands an immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, provident and mild. . . . For their happiness such a government willingly labors, but it chooses to be the sole agent and only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property and subdivides their inheritances . . .
>
> After having thus successively taken each member of the community in its powerful grasp and fashioned him at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a network of small, complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate to rise above the crowd. The will of man is not shattered, but softened, bent and guided; men are seldom forced by it to act but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd.

Perhaps the most disturbing part of this prophecy is the reference to the inability of "the most original minds and the most energetic characters" to penetrate the network of rules "to rise above the crowd." How many small businesses have been founded or operated with the determination to remain forever small? During fitful economic crises, certainly, the primary instinct has been merely to survive. However, during stable periods, the overwhelming urge is to provide ever better products and services—in short, to grow and prosper, "to rise above the crowd."

Rising above the crowd is difficult in a lead balloon, and any modern small businessman can describe the sensation. The respect and encouragement he once enjoyed have been replaced by ambivalence and hostility. On the one hand, the businessman has become a scapegoat for many of our social ills. We suspect that he will cheat and deceive us, destroy our resources, pollute our environment, pander to our vulgar tastes, and murder us in our flammable beds. On the other hand, we have not forgotten that he has made an enormous contribution to the development of this country and is absolutely essential to its survival. And so we respond with laws to protect him and to protect us from him. The result is a chaos of regulation.

As one of the most controversial issues of the day, the subject of Federal regulation and its debilitating effect on small business has already been the subject of much comment. I will proceed to heave a few more statistics into the rumbling maw. Let me say in a relevant digression that we are a nation enamored with statistics. The larger the figures, the more impressed we are. It is as though figures were a good in themselves and had some mystical power to right wrongs and to effect desired ends. To the contrary, volumes of information can have a stupefying effect. Like children inured to violence on the television, we must be exposed to greater and greater numerical atrocities before their significance penetrates to the shock layer of consciousness.

And so if I say that there are approximately 63,500 Federal regulators in the country, I am not sure whether this seems a truly outrageous number. If I say that the cost of this regulation is about $2,000 per family per year, is that appalling? Will there be more gasps of indignation if the result of such regulation is totaled up to a national cost of $130 billion a year?

We are living in an age when the value of the dollar itself cannot be presently or predictively quantified; $130 billion is beyond conception to most of us; $2,000 can swiftly be frittered away on the innumerable and virtually valueless items with which we indulge ourselves daily. If the figures were bigger, perhaps they would be more effective. And in that very void of nonresponse, they continue to grow.

When those figures begin to have meaning in delay and inconvenience and frustration and absurdity, as they do to the small businessman, then they leap to life.

He knows the significance of applications and forms measured in pounds, not in pages.

He knows what it means not to be allowed to use his own judgment in making business decisions.

He knows how frustrating it is to have to pay someone else to interpret volumes of punitive legal requirements.

He knows what it is to be bled white by the ministrations of a well-meaning physician, in whose absence he would be infinitely healthier.

In one way, the small businessman is a victim of a virtue of the American system. Max Ways explained the paradox in an article in Fortune magazine last spring:

> The very dispersal of power into millions of hands—one of the greatest achievements of the System—has the perverse result of making each citizen think that others hold huge and secret concentrations of influence. In fact, politicians have never been so sensitive to the power of voters, nor corporate managers to the power of employees and consumers. But where none admits he wields power or shares in leadership, each feels free to maximize his demands on the System and his complaints about it.

The demand for protection against the power of someone else is a demand for power itself. Congress must constantly arbitrate such conflicting demands. The result is a mass of laws juxtaposing severe restrictions and penalties on the one hand with special concessions and absolute exemptions on the other. The by-product is paperwork, paperwork, and more paperwork. Let me give an example from the activities of the Senate Banking Committee on which I serve.

Recent business in the committee has strongly reflected the assumption that the consumer must be protected from the power of commerce simply to ignore him. The result has been a profusion of disclosure legislation regarding lending and credit billing and real estate settlement procedures and the process of credit denial. The demand for information is not unreasonable in itself, and Congress has responded accordingly. Unfortunately, the result has been a jungle of disclosure regulations implementing the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Credit Billing Act, the Equal Credit Opportunity Act, and the Real Estate Settlement Procedures Act. The regulations are highly technical and involve detailed compliance procedures. A formidable task for any big business, compliance can become a matter of life and death for a small business. In poignant testimony before the Consumer Affairs Subcommittee, one small retailer said that he simply could not handle new regulations. He said that he did not have the legal staff. He did not have the facilities. He did not have the know-how. And the prospect of a lawsuit was the last straw.

Another example of disclosure legisla-

creating new programs and new requirements. Unfortunately, we seldom consider the paperwork implications of these measures, and they end up adding to the already staggering burden.

The bill remedies this situation by requiring the committees of Congress to do two things:

First, they must include a Paperwork Impact Statement in the report of each bill or joint resolution of a public nature, except for appropriations bills, that is, sent to the floor of the Senate or the House of Representatives.

Second, they must review the reporting requirements of the departments and agencies within their jurisdictions and report their findings at least once every calendar year.

In addition, the bill places a time limitation of 1 year on the approval of forms by the Office of Management and Budget under the Federal Reports Act. Each form in use by an agency subject to that act will be required to carry a notice to the respondent that it has been approved, the date on which it has been approved, and the date on which the approval expires.

The bill also provides that no agency may require a form to be submitted by a private individual or enterprise if the OMB approval has expired. Each form must carry a notice to this effect.

Mr. President, with the exception of the provisions regarding OMB approval, this bill is designed to clean up our own house here in Congress before we attempt the more complicated and important task of cleaning up the executive departments and agencies. We can accomplish this job in the immediate future, while the Commission on Federal Paperwork is completing its work and formulating its recommendations on how to reduce the overall paperwork burden.

Frankly, there is no reason why Congress should wait on the Federal Paperwork Commission before improving its own procedures and performance in evaluating the paperwork impact of the legislation it passes. Nor should we refrain from reviewing the reporting requirements of the agencies within the legislative jurisdiction of the various committees. These are very practical requirements that can be complied with right now.

Mr. President, the Federal paperwork burden has grown year by year, requiring ever-increasing time and money of the people of this country—particularly small businessmen. It contributes to inflation and stifles productivity.

In 1965, the House Post Office Subcommittee issued a report that concluded that if one Government record were burned every second, it would take 2,000 years to destroy all of them.

Since then the problem has grown worse. Between 1965 and 1968 alone, Congress passed enough laws to cause Federal paperwork to mushroom by 30 percent.

Over the years, in fact, Government forms have grown immortal. Since 1955, for example, both the Internal Revenue Service and the Social Security Administration have agreed that form 941, the quarterly report of wages earned, could be replaced by a single annual report. For the last two decades every congressional committee studying the paperwork problem recommended that form 941 be changed from a quarterly to an annual report.

Yet, 20 years later, form 941 was still with us. Moreover, the cost of compliance rose from an estimated $22 million a year in 1955 to an estimated $235 million a year for small business alone.

Finally, last October the new Federal Paperwork Commission again recommended that form 941 be replaced by an annual report. This recommendation was incorporated into legislation that has now been signed by the President and the change will go into effect in 2 years.

I am pleased that the 22-year battle against form 941 will be won shortly, but the struggle involved in eliminating one little form that everyone agreed was unnecessary does not auger well for the future under the present circumstances.

The Federal Reports Act, which has been law for 30 years, requires the Office of Management and Budget to reduce the amount and duplication of paperwork. This clearly has not happened.

It is time Congress took forceful and positive action to reduce the avalanche of forms that daily inundate the people of this country.

The bill that we introduce today is similar to legislation sponsored in the past by our distinguished colleagues, Senator BENTSEN, of Texas, and Senator Moss, of Utah. Many of its provisions were put forward during hearings on the Federal paperwork burden which were conducted jointly in October by the Subcommittee on Oversight Procedures and the Subcommittee on Reports, Accounting and Management, which is chaired by Senator METCALF. I wish to express my appreciation for the excellent suggestions offered by my cosponsor, Senator ROTH, of Delaware, during those hearings, and for the contributions of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

As I said, our bill is intended to reduce the amount of paperwork required by new legislation and to enable the Congress to gain control over existing forms and reports.

First, it requires a paperwork impact statement to be included in the committee report of each bill or joint resolution of a public nature, with the exception of appropriations bills. The laws enacted by Congress are primarily responsible for the Federal paperwork burden, and these impact statements will force us to evaluate the paperwork implications of a bill before it is enacted.

The paperwork impact statements would estimate or assess:

The amount and type of information that would be required to comply with the provisions of the bill and the cost and time to private enterprises to supply such information;

The current availability of such information within Federal departments and agencies;

The types and number of forms, reports and records that would be required by the bill; and

The cost or time that would be required of business enterprises in completing the forms required by the legislation.

Second, it requires each House and Senate committee to conduct a review of the reporting requirements of the departments and agencies within its jurisdiction and report its findings at least once every calendar year.

Finally, it requires the approval of forms by the Office of Management and Budget to be limited to a single calendar year. Each form in use by an agency would be required to carry a notice to the respondent that it has been approved, the date on which the approval expires, and the fact that no form whose OMB approval has expired need be submitted. The bill specifically provides that no agency may require a form to be submitted by a private individual or enterprise if the OMB approval has expired.

Mr. President, I urge my colleagues to join with us in this effort to untangle the redtape which is threatening to strangle both private enterprise and the Federal Government.

Mr. President, I ask unanimous consent that the text of the Paperwork Review and Limitation Act of 1976 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3076

A bill to improve congressional oversight of the reporting and paperwork requirements of Federal departments and agencies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Paperwork Review and Limitation Act of 1976".

SEC. 2. Part 5 of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new section:

"PAPERWORK IMPACT STATEMENTS

"SEC. 254. (a) The report accompanying each bill or joint resolution of a public character reported by any committee of the Senate or the House of Representatives (other than the Committee on Appropriations of either House) shall contain a "Paperwork Impact Statement" which shall estimate or assess—

"(1) the amount and character of the information that will be required of private individuals and business in order to carry out the provisions of the bill or joint resolution,

"(2) whether such information already is being gathered by and is available from other departments or agencies of the Government,

"(3) the number and nature of the forms that will be required for the purpose of gathering the information, and the number of reports which would be required to be made, and the records which would be required to be kept, by private business enterprises as a result of enactment of the bill or joint resolution, and

"(4) the cost or time which would be required of private business enterprises, especially small business enterprises, in making such reports and keeping such records.

"(b) It shall not be in order in either the Senate or the House of Representatives to consider any such bill or joint resolution if such bill or joint resolution was reported in the Senate or the House, as the case may be, after the effective date of this section and the report of that committee of the Senate or House which reported such bill or joint resolution does not comply with the provisions of subsection (a) of this section.

"(c) For the purposes of this section, the members of the Joint Committee on Atomic Energy who are Members of the Senate shall be deemed to be a committee of the Senate, and the members of such committee who are Members of the House of Representatives shall be deemed to be a committee of the House.

"COMMITTEE REVIEW OF PAPERWORK

"SEC. 255. At least once every calendar year each committee of the Senate and the House of Representatives shall conduct a thorough review of, and report to its respective House of Congress on, the reporting requirements of the departments and agencies within its legislative jurisdiction, including the number and character of reporting forms issued and withdrawn by such departments and agencies during the year. The reports required by this section shall be filed not later than February 15 of each year."

SEC. 3. The table of contents of the Legislative Reorganization Act of 1970 is amended by adding at the end of part 5 of title II thereof the following new item:

"Sec. 254. Paperwork Impact Statements.

"Sec. 255. Committee Review of Paperwork."

SEC. 4. Section 5 of the Federal Reports Act, as amended (44 U.S.C. 3509), is amended to read as follows:

"SEC. 5. (a) A Federal agency may not conduct or sponsor the collection of information upon identical items from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

"(1) the agency has submitted to the Director of the Office of Management and Budget the plans or forms, together with copies of pertinent regulations and of other related materials as the Director has specified; and

"(2) the Director of the Office of Management and Budget has approved the proposed collection of information and the plans or forms to be used therein.

"(b) No approval by the Director for the collection of information shall extend beyond the period of one calendar year.

"(c) No agency subject to the provisions of this section shall require the submission of any reporting form by a private individual, group, organization or business enterprise if the approval by the Director has expired.

"(d) Each reporting form used pursuant to this section shall have printed thereon in clearly legible and conspicuous type the following information:

"(1) the fact that the form has been approved by the Director of the Office of Management and Budget,

"(2) the date on which such approval expires, and

"(3) the fact that the form need not be submitted by the respondent if the period of approval has expired at the time of its receipt by the respondent

"(e) Not later than the end of every calendar year each Federal agency subject to the provisions of this section shall submit to the Director and to the Senate and the House of Representatives, a list of all forms which are approved and in use by such agency, all forms which have been approved for use by such agency during the calendar year, and all forms which have been withdrawn by such agency during the calendar year."

SEC. 5. The Director of the Office of Management and Budget shall, in consultation with the Comptroller General, undertake a study of the feasibility of requiring a single standard form for the collection of information by all Federal agencies. The Director shall report the results of the study, along with any recommendations that may result therefrom, to the Senate and the House of Representatives not later than one year after the date of enactment of this Act.

Mr. NUNN. Mr. President, if the Senator from Wyoming will yield additional time to the Senator from Delaware, who is a major cosponsor of the bill, I am certain we could both express our intent on this legislation.

Mr. HANSEN. Mr. President, I yield such time to my distinguished colleague from Delaware as he may require.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Senator from Wyoming for yielding to me.

I am happy to join with Senator NUNN in introducing the Paperwork Review and Limitation Act of 1976, which is offered to improve executive and congressional oversight of the reporting and paperwork requirements of Federal departments and agencies.

I particularly appreciate the interest, innovations, and hard work of the chairman of the subcommittee in developing this legislation, which I think can be one of the most important reforms that will come before the Senate this year.

I ask unanimous consent to add the name of Senator HRUSKA as one of the principal sponsors to our legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, this legislation will permit Congress to mandate a stricter review of Federal paperwork requirements.

The Government Operations Subcommittees on Oversight Procedures, and Reports, Accounting, and Management held joint hearings in October which strikingly cast the dimensions of the paperwork problem. The Government spent in excess of $18 billion in 1975 to produce, handle and store its official papers. This does not even include the cost to the public of filling out and filing Federal forms. The total cost to the economy for this paperwork is estimated at as much as $40 billion each year.

PAPERWORK BURDEN

As has been brought out so eloquently, the number of forms required by Government of individuals and businesses is staggering and each year new forms are added. In 1972 alone 7 million cubic feet of records were produced by the Federal Government. As of February 1975 the official OMB count of separate forms required by Federal Government agencies to collect information from the public tallied 5,695 forms.

It is estimated that every man, woman, and child in America completes an average of 10 Federal forms each year. The paperwork burden however is not evenly distributed and many small businesses share a load three times this amount.

In a recent survey of Delaware businesses I found that many businessmen must spend hundreds of man-hours and thousands of dollars merely to keep up with paperwork requirements. The paperwork burden, the survey indicated, is particularly onerous at the Internal Revenue Service, the Occupational Safety and Health Administration, the Census Bureau, and under the Employee Retirement Investment Security Act.

INADEQUATE REVIEW

Review of Federal forms and reporting requirements to date has been inadequate. The General Accounting Office has conducted a review and investigation of the performance of the Office of Management and Budget and the Labor Department under the Federal Reports Act. The study concluded that weaknesses in the procedures for clearance of a form and in OMB's enforcement of the provisions of the law have frustrated the goal of reducing paperwork requirements. OMB has not vigorously carried out the intent of this law to reduce unnecessary paperwork and the enormous burden on citizens and small businessmen.

GAO found that OMB has assigned indefinite expiration dates for many forms and has simply waived the clearance process for some forms. Also, OMB has been lax in evaluating whether the information sought by agencies is really needed.

The subcommittees received testimony that present procedures for review and clearance of forms is inadequate and should be strengthened.

PAPERWORK LIMITATION

The legislation which is being offered today would strengthen the review of forms and provide for an annual expiration for all forms.

The Office of Management and Budget would be directed to improve its efforts to reduce burdensome and duplicative information and reporting requirements In order for the effort to reduce paperwork to be successful, OMB would review the need for reports each year and approve the use of existing forms. Unless each form is specifically reapproved, the public would not be required to submit information sought by the agency.

Each form used by an agency would carry the date on which approval expires This would provide OMB with an annual responsibility to review Federal forms. It would also aid OMB in managing and clearing forms and reducing the Federal reporting burden. The tendency at OMB has been to avoid assigning definite dates for expiration, or to waive certain forms from the clearance requirements. Without meaningful review procedures OMB cannot carry out its responsibilities to reduce the paperwork burden.

Congress, for its part, can help curb growth in the number of new forms by strengthening its assessment of the paperwork impact of proposed legislation. Each congressional committee would be responsible for including in its report a statement of the new paperwork requirements on proposed legislation. The statement on the paperwork impact would include an estimate as to the amount of additional information required to comply with each new law, the cost in dollars and man-hours to businesses or local governments which must comply with the new law, the current availability of similar information in other agencies or departments, and the number and types of forms, reports and records required under the bill.

This bill also requires each House and Senate committee to conduct a review of the reporting requirements of the departments and agencies within its jurisdiction and report its findings and recommendations.

Many in Congress have become alarmed by the magnitude of the paperwork burden on our citizens. Certainly as part of our approach to reduce this burden the Congress can take steps to review carefully the reporting requirements which are contained in new legislation. The full impact of these reporting requirements ought to be fully assessed. It is unfortunate indeed when public confidence in worthwhile legislation is undermined by paperwork requirements.

I have been actively seeking to minimize duplication in Government in order to reduce waste and to improve efficiency. Today there is far too much duplication in the paper mountain of Federal forms. Information is required first by one agency or department, then another, then by a State or local government. The individual or firm facing the Federal and State government leviathan must submit the same basic information many times over.

Therefore, this bill directs a review of the feasibility of developing a standardized form, containing basic data for any State, city, town, county, or other unit of government. A consolidated form would reduce needless duplication in the requirements for reports, applications, and forms. This would enable a local government to use one standard form to satisfy several agency information requests without wasting hundreds of man-hours in duplicative paperwork. I believe a standardized form would be a significant improvement over present procedures.

I can say that from my personal experience that the city of Wilmington and State of Delaware, as well as other governmental units, tell me that time and again each year they are required to submit the same information. This is a waste of effort on the part of both the local agency and the Federal Government.

Of course, another key way to reduce the duplication in forms is to reduce the number of overlapping programs. Frequently a local government seeking Federal funds for a project must apply to several agencies under different assistance grant programs.

The GAO completed a study last July which showed that there are over 975 programs of assistance to State and local governments. The overlap is very striking. For example there are some 186 programs with funds for community development. Forty-seven of these are for planning, research, and training, and 23 are for construction and renewal operations.

The proliferation of forms cannot realistically be cured unless there is a reduction in the proliferation of domestic assistance programs. The Congress should take steps to provide regular review of assistance programs and to promote consolidation or elimination of duplicative programs.

This legislation will give OMB added responsibility to review all forms and lessen the paperwork burden. However, agencies and departments also should be encouraged to assume a responsibility.

One wonders how much of the information collected is really necessary to the agencies. Each department director should inquire as to whether the information is meaningful for the stated purpose. Also, it should be examined whether the information is really used. I suspect that much of the waste from needless paper shuffling can be corrected at its source—within the agencies themselves.

Departments and agencies can cut down much of the redtape by reexamining their own forms. In many cases agencies do not adequately review the forms which they use. How often does a government agency recommend elimination of one of its own forms?

Unless the agencies themselves take the initiative in this area, it will be difficult to make significant progress in reducing the total of 5,700 Federal forms. Perhaps a target could be set to eliminate a percentage of all forms by a date certain.

True relief of the paper burden will only be achieved by an actual reduction in the number of forms being sent out.

The Commission on Federal Paperwork is presently reviewing forms and examining record-keeping requirements in the agencies and some progress is being made. Already the Commission has succeeded in changing employee wage reporting requirements from quarterly reports to annual reports. This change alone is expected to save the Government $24 million in processing costs. However, even this simple change has taken over 20 years to implement despite repeated recommendations by congressional committees to make the change.

We need to take the recommendations of the Commission on Paperwork seriously and work toward implementation of proposed improvements. It seems to me that unless you have a task force with real clout to eliminate unnecessary paperwork and forms, the agencies are going to resist change.

The legislation submitted today mandates the tough review of Federal paperwork that the public is demanding.

Mr. President, in closing I would just like to make one comment.

I think the subcommittee, the chairman and others who have worked on this bill, have come up with a meaningful answer to the paperwork problem, but I would just like to say that in my judgment if this does not work, I think there is another approach we might use. Congress has been very quick to establish goals, objectives, for the private sector to reach whether or not it was scientifically possible at the time of the enactment of the legislation. Very candidly, I have been supportive of many of these efforts, because I think it is desirable to place goals, for example, in the case of the automobiles with their emissions.

But I say that if this legislation does not work, I, for one, will be ready to introduce and support legislation to require the executive branch, the agencies, to be required to reduce their paperwork by 50 percent.

They tell me it cannot be done, but I do not believe that.

Mr. President, I yield back the remainder of my time.

Mr. NUNN. Will the Senator yield for 1 minute?

Mr. HANSEN. I will be happy to.

Mr. NUNN. I thank the Senator from Delaware for his efforts and hard work on this legislation. We have had many hearings on the subject. We have had several staff meetings and we have had a number of personal meetings. This legislation is a joint effort, a bipartisan effort. It has been arrived at by the close consultation between the Senator from Georgia, the Senator from Delaware, the Senator from New Hampshire, and others. I thank the Senator from Delaware for the very meaningful role he has played in this legislation.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to say that I was greatly impressed by the remarks of my colleagues on the effects of Government regulation on business and on jobs in America. I was impressed by the remarks of the distinguished junior Senator from Georgia and the senior Senator from Delaware in spelling out, as they have, the cost to business and the burden that paperwork places upon the economy.

Mr. President, burdensome and excessive Federal regulation is threatening the financial existence of American small business.

Mr. President, of the 10 million businesses in the country today, 9 million are small. These 9 million small businesses account for one-third of the gross national product; 48 percent of the gross business product; and employ approximately 55 percent of the business labor force.

Bankruptcies for small business in the year ending June 30, 1975, increased an astonishing 45 percent to 30,130.

In 1970, small businesses had total liabilities of $1.9 billion. The total liabilities for 1975 is estimated to be $4.25 billion. Mr. President, total liabilities increased from 1974 by $1.25 billion.

Small business is confronted with double digit inflation and rising costs; tight credit and depressed markets. Federal regulations add to these conditions under which small business must operate. Today, we are concerned with this last factor, Federal regulation, which adds to the cost under which small business must function.

In prior colloquies we have discussed the infringement by Federal regulatory agencies on the civil liberties of the American citizenry and the cost that consumers pay for Government regulation.

It is estimated that the direct and indirect cost of Federal regulation is $130 billion annually. The cost of regulation to the American family is $2,000 per year.

How does unnecessary Federal regulation affect the small businessman? It increases the cost of doing business to a sector of our economy which is financially strapped.

Mr. President, there are 12 Federal departments, 75 agencies, 1,000 boards, commissions, and advisory panels. These Federal regulators employ 64,000 people. There are 5,146 different Federal forms required by the Internal Revenue Service and regulatory agencies.

It is appalling to find out that individuals and businesses spend 130.5 million man-hours annually filling out 2 billion forms annually which are sent to various agencies of the Federal Government.

The Federal shuffling, reviewing and filing of much of this paperwork is unnecessary and is adding to the costs of operation which small business cannot afford.

Mr. President, the cost of unnecessary paperwork is adversely affecting small business. Let me give you an example:

The Federal Government requires so much paperwork of companies with private employee pension programs that hundreds of small retirement plans are being canceled

By approving comprehensive pension reform legislation last year, Congress sought to encourage more and better private retirement plans which would cover many more workers. Instead, the paperwork requirements that have followed this legislation are so expensive and burdensome that hundreds of small pension plans have been canceled.

Mr. President, more than 5,000 retirement plans have been terminated since passage of the pension reform bill, and more than 1,200 notices of intent to cancel have been received by the government in December, alone.

Recently, the Senate Finance Subcommittee on Private Pension Plans was holding public hearings to explore ways of reducing and simplifying government paperwork requirements, particularly for small employers.

An official of the National Commission on Federal Paperwork told the subcommittee an example of Federal "overkill" was a complex Labor Department form sent to companies with employee retirement plans which "demanded information the Department of Labor could not use or absorb."

Mr. President, Mr. Bruce Fielding, a member of the Commission, said government forms for reporting on private pension plans were so complex that employers had to seek professional legal and actuarial assistance. He said the cost of providing information exceeded employer contributions to the pension plans, in some cases.

At least 90 percent of the existing private retirement plans are small, with only 10 percent having more than 100 covered employees.

The enforcement provisions of the law—the Retirement Income Security Act of 1974—were aimed at large employers and large unions, with no consideration given to their effect on small employers. As a result, we have done a disservice to the millions of citizens participating in small private retirement plans.

At the last colloquy, I cited specific examples of absurd regulation by OSHA and EPA in Wyoming.

Relating to OSHA, I agree that an employee should work free from recognized hazards that are likely to cause serious physical harm or death. However, OSHA has gone beyond this purpose and enacted rules and regulations many of which are absurd and do not approach the slightest notion of common sense. The net effect of the unnecessary regulations is increased costs of operation to the small businessman and sometimes financial ruin.

We in the Congress must do something about this unnecessary Federal paperwork which affects individuals and businesses, both small and large We must do more than create a Federal Commission on Paperwork. In his book, "Go East Young Man," in Chapter 19, "The Bureaucracy," Mr. Justice Douglas said:

The great creative work of a federal agency must be done in the first decade of its existence if it is to be done at all. After that it is likely to become a prisoner of bureaucracy and of the inertia demanded by the establishment of any respected agency.

We must, in the interest of our constituencies, take a long hard look at Federal regulatory agencies. Possibly, the answer lies in the streamlining of Federal agencies which would protect the public interest both rural and urban, encourage more competition, and eliminate many of the unnecessary costs to businesses and consumers alike. The answer could be found in the abolishment of some Federal agencies or periodic review which would require congressional reauthorization of these regulatory agencies.

In sum, Federal regulation which results in unnecessary paperwork and costs for small business must be eliminated. Federal regulation must be given a long hard review by the Congress. The adverse effect on individuals, businesses, be they small or large, is unconscionable.

I yield the remainder of my time to the distinguished Senator from Nebraska

Mr. CURTIS. Mr. President, I thank my distinguished friend from Wyoming very much.

Mr. President, when medicare was enacted, the people of the United States were promised that it would not be a program to direct the practice of medicine; that it was a program merely to help people financially and would not interfere with the doctor-patient relationship. Of course, Mr. President, we have come to find out that those promises were hollow, that they have not been kept at all.

Today, the Department of HEW has teams of inspectors running around the country interfering with the practice of medicine. What they are doing is they are driving doctors out of the practice.

I mentioned before in this Chamber that one of our county seats in Nebraska had had a doctor for 20 years. When he started, he had one clerk do all his office work. Today he has four in order to keep up with the Government regulations, so he is quitting.

Mr. President, I hold in my hand a letter from a distinguished doctor in my State. He happens to be a diplomate on the American Board of Family Practice, a fellow of the American Society of Abdominal Surgeons, and a fellow of the American College of Chest Physicians.

In this particular case, this is a small city. I should judge not more than 1,000 or 1,200 people live there. They only have one doctor. HEW is doing their best to drive him out of business. They descended upon him with a couple of inspectors and left their report for him to spend his time answering, rather than spend his time curing the sick. I want to read from it. Here is one complaint:

Registered nurses are dispensing medication which are not in conformity with the State and local laws.

Here is the doctor's answer:

My nurses will be giving medication upon my specific order, the same as they would be if they were giving out medication for my office where I accept the total responsibility because all of these people employed here in the hospital are, of course, responsible to me and they would not be doing anything that I have not given them specific orders to do. I expect my orders to be carried out.

Who is going to practice medicine, the bureaucrats or the doctors?

Another objection:

There were no procedures for verification of current license for registered personnel other than registered nurses.

We are talking about a town with one doctor. Here is his answer:

This might be of some value in a large institution, but for a small hospital such as ours, I don't think it is of any particular value. My license as well as those of my consultants and others are in plain view in my office.

I shall just read a few of these.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. CURTIS. I ask unanimous consent that I may have 5 minutes of the time surrendered by the distinguished Senator from West Virginia (Mr ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Here is another complaint:

Janitors's closets did not have sufficient shelving resulting in cleaning supplies stored on the floor.

Here is the doctor's answer:

Ridiculous! No bearing whatsoever on patient care. No reason whatsoever they can't be stored on the floor and I feel that my opinion as a physician is far superior to that of any janitorial expert and if the janitorial expert cares to argue with me, I suggest he go to medical school first!

Mr. President, thank heaven we have citizens who still have the courage to fight back against the bureaucracy. Too many of them are submissive, and they let the bureaucracy come in, destroy their profession, and destroy their opportunity to serve their fellow man by healing the sick.

Here is one of the other complaints:

Clean linens, restraints, and bandages were stored in used cardboard boxes that are not cleanable.

Here is what the doctor said about it:

Matters not whether or not the boxes are cleanable since these are clean linens—not sterile.

Here is another complaint by these bureaucrats that we are not only paying, we are providing them with retirement:

There were no written hand scrubbing procedures available in surgery or OB.

They are talking about a town that has one doctor; and he should put up a sign, "I am supposed to wash my hands" so he can see it.

Here is his answer:

This is unnecessary since no one is allowed in the operating room who is not thoroughly familiar with sterile technique and operating room procedures.

Here is another one:

The autopsy rate of this facility is 8.7 percent. It is recommended that 20 percent of all in-hospital deaths be autopsied.

Here is the doctor's reply:

I would be extremely interested to see the autopsy rate in one of the hospitals in the western two-thirds of Nebraska. Our percentage was much higher; however, during the past two years about the only people we have had expire have been people well above 70 years of age—whose clinical cause of death was extremely apparent and would have revealed nothing except just to make the paperwork look good. I am certain that this 20 percent recommendation should not be complied with just on the basis of making the paperwork look good.

Here is another complaint:

Medical records reviewed did not indicate that consultation was recorded or dictated prior to surgery.

This good doctor says:

Whether or not medical records indicate the consultation prior to surgery, obviously if it was otherwise, the consultant would not have been here in the first place. We discussed the case thoroughly on the telephone first; then when he arrives he sees the patient, then we again discuss the case. I do not feel it is necessary to record all of our discussions and I will not dictate it or record it. So there!

Again I say, thank heaven we have individuals with enough spine to fight back this crushing power of the bureaucracy. He goes on to say:

And if you don't like it, take my license and find someone else to fill my position in this hospital in this community.

The sad part of it is, they cannot get another doctor. Here is a man who has risen in his profession, and recognized by other doctors.

Here is one more complaint:

There is no documentation that the functions of the medical records committee are carried out. There is no evidence that medical records are being evaluated for quality of patient care from the documentation on the chart by the committee.

They are talking about a community that has one doctor and only one small hospital.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. Mr. President, I ask unanimous consent that the letter in support of the doctor's position, the entire complaint, and the doctor's answers thereto be printed in the RECORD, together with a statement by me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 23, 1976.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR CARL: First of all I want you to know that I will be willing and anxious to help as much as possible and do whatever I can as far as obtaining funds, as well as votes, for your upcoming election and if there are any specific tasks that you think I might be able to accomplish on your behalf, please do not hesitate to let me know. You are a valued friend as well as legislator and I am sure you are aware of how I, as well as most of the people in this area, feel about you and want to keep you in office.

I hate to bother you with things such as this and I know you probably are not going to have time to read this but I hope your Administrative Assistant will bring some of this to your attention so far as the so-called "deficiencies" as a result of our recent inspection by the Medicare people. Not a single one of these so-called deficiencies are related to taking care of patients and seeing to it that people are treated kindly as well as efficiently. All of this amounts to nothing other than a great deal of bureaucratic bull____, as I am sure you are well aware, and it bothers me to know and to think that our government is spending the money for these people's two salaries, which I am sure are substantial, and not only that, are adding two more "inspection teams", costing even more money, and yet the press throws the blame for the increasing cost of medical care upon physicians and hospitals. Of course as you and I know, the truth lies in precisely such expenditures as this; that is, creating more government bureaucrary and jobs (if the government wants to create jobs, then let them go back to the old CCC and WPA where at least we can get some trees planted and maybe a little work done and not have these people running around the hospital interfering with my help and the function of my hospital when it is totally unnecessary.)

Now for an answer to each of these so-called deficiencies—and your Administrative Assistant may call these to your attention since I do indeed hate to take your valuable time in reading these individually, but if you have the opportunity, I do think it would be a great revealing for you. The list is attached, with my answers.

Again, thank you for your attention and please let me know if there is anything at all I can do to help you in your reelection campaign.

Very sincerely.

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

SUMMARY STATEMENT OF DEFICIENCIES NOTED BY SURVEYING STATE AGENCY WITH REFERENCE CITATION	PROVIDER'S PLAN OF CORRECTION WITH TIME TABLE
A6, 405.1020. A9, 405.1020(c), Registered nurses are dispensing medication which are not in conformity with state and local laws.	My nurses will be giving medication upon my specific order, the same as they would be if they were given out medication for my office where I accept the total responsibility, because all of these people employed here in the hospital are, of course, responsibile to me and they would not be doing anything that I have not given them specific orders to do and I expect my orders to be carried out.
A8, 405.1020(b). There were no procedures for the verification of current license for registered personnel other than registered nurses.	This might be of some value in a large institution but for a small hospital such as ours, I don't think it is of any particular value. My license, as well as those of my consultants and others, are in plain view in my office.
A9, 405.1020(c). A258, 405.1025(b)(5). Employees are not given annual TB skin tests.	I have a return postcard with description and tactile card for measurement of induration which is far superior to any other method of interpreting Tine tests. I prefer Tine Tests—per my order.
*Any deficiency statement ending with an asterisk(*) denotes a condition which the institution may be excused from correcting provided it is determined that other safeguards provide sufficient protection to the patients. The asterisk means that the surveying State Agency has recommended that the deficiency be waived for this reason. If the State Agency recommendation has been accepted, this will be noted in the right hand column opposite the deficiency statement.	NOTE.—This document contains a listing of the deficiencies cited by the surveying State Agency as requiring correction. This Summary Statement of Deficiencies is based on the surveyor's professional knowledge and interpretation of Medicare and/or Medicaid requirements. In the column Provider's Plan of Correction, the statements should reflect the facility's plan for corrective action and anticipated time for correction. Copies of this form will be kept on file at local Social Security and Public Assistance Offices, to be made available to the public, upon request.
A70, 405.1022(a)(2). a. Janitor's closets did not have sufficient shelving resulting in cleaning supplies stored on the floor.	Ridiculous!! No bearing whatsoever on patient care. No reason whatsoever they can't be stored on the floor and I feel that my opinion as a physician is far superior to that of any janitorial expert and if the janitorial expert cares to argue with me, I suggest he go to medical school first!
b. The basement storage rooms had boxes of new supplies on the floor; e.g., bandages, gauze, chux, boxes of intravenous solutions and other supplies; thereby not lending space for proper cleaning methods.	The same thing applies as above. The current situation suits the attending physician quite well. The attending physician is the one who needs to be satisfied.

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION—Continued

SUMMARY STATEMENT OF DEFICIENCIES NOTED BY SURVEYING STATE AGENCY WITH REFERENCE CITATION—Continued

PROVIDER'S PLAN OF CORRECTION WITH TIME TABLE—Continued

Clean linens, restraints, and bandages were stored in used cardboard boxes that are not cleanable.

d. Chipped enamel wash basins and emesis pans were observed. These type items are not easily cleaned and sanitized.

A92, 405.1022(c)(2). There were no written hand scrubbing procedures available in surgery or OB.

Matters not whether or not the boxes are cleanable since these are *clean* linens—not sterile.

This sounds like a complaint of some young housewife's mother-in-law!

A103.

A109. 405.1023(b)(1). The autopsy rate of this facility is 8.7%. It is recommended that 20% of all in hospital deaths be autopsied.

This is unnecessary since no one is allowed in the Operating Room who is not thoroughly familiar with sterile technique and operating room procedures.

I would be extremely interested to see the autopsy rate in one of the hospitals in the western two-thirds of Nebraska. Our percentage was much higher; however, during the past two years about the only people we have had expire have been people well above 70 years of age whose clinical cause of death was extremely apparent and would have revealed nothing except just to make the paper work look good. I am certain that this 20% recommendation should not be complied with just on the basis of making the paper work look good.

A116. 405.1023(c)(3). Medical records reviewed did not indicate that consultation was recorded or dictated prior to surgery.

Whether or not medical records indicate the Consultation prior to surgery, obviously if it was otherwise, the consultant would not have been here in the first place. We discuss the case thoroughly on the telephone first; then when he arrives he sees the patient, then we again discuss the case. I do not feel it is necessary to record all of our discussions and I will not dictate it or record it. So there! And if you don't like it, take my license and find someone else to fill my position in this hospital in this community.

A168.

A170, 405.1023(n)(1).

A175, 405.1023(n)(5). There is no documentation that the functions of the medical records committee are carried out. There is no evidence that medical records are being evaluated for quality of patient care from the documentation on the chart by the committee.

Again, this appears to be more bureaucratic meddling. The quality of patient care is obvious by our very low morbidity and mortality especially so far as our surgical patients are concerned since we have had no deaths in the operating room in 10 years with some 2500 procedures and also no anesthetic deaths. Nothing speaks for itself as does good results and that is all that matters, not the paper work. This sort of criticism reminds me of when I was in the military and my Commanding Officer told me at one time it didn't matter how well or bad things were going in the Clinic, as far as patient care was concerned, just so we kept up with our paper work. I disagreed to the point of almost striking him 3 of 9 and I still disagree that strongly today.

A173,, 405.1023(n)(4). There is no documentation that on-the-spot scanning of current inpatient records is being done.

Scanning all records is done twice a day by the attending physician when I make rounds and I think that is entirely adequate.

A232, 405.1024(h)(3). Nursing care plans did not include: 1. allergy status, 2. dates when medications were initiated or renewed, 3. patient problems and needs, 4. goals and approaches to resolve these problems

I disagree wtih this whole section completely. The allergic status is known to the Attending Physician and stated as such, if there are any, on the History and Physical. If none are stated, then none are present. This is the province of the Attending Physician. If I care to tell the nurses, I will do so; otherwise it is not their responsibility.

Dates when medications were initiated or renewed—the dates when I order or initiate a medication are on the order sheet and the date they are discontinued is also on the Order Sheet and they are continuously given in between those dates when they were initiated and discontinued

Patient problems and needs. I don't mind the nurses discussing this with the patient. However, it is my responsibility to determine his problems and needs and what will be done about them and I don't like this invasion of my domain.

Goals and approaches to resolve these problems. The nurses have no business even dreaming of a goal or approach to solve any problem. These are up to me and if a nurse attempts to solve a problem, then she will get a severe reprimand from me as the Attending Physician.

A233, 405.1024(h)(4). Nursing notes do not include: 1. pertinent information regarding the admission of the patient to the hospital, 2. plans or actual patient teaching, 3. reason PRN medication is given and reaction to it, 4. reason medication is refused, 5. special instructions; ie. check pulse before giving Lanoxin.

A 233. Again a bunch of bureaucratic meddling. I am extremely satisfied with my nurses notes and think I have an excellent nursing staff and I have no complaints whatsoever. My nurses notes are complete and to the point, both written and verbal and I resent strongly any inference to the contrary by this notation. Most assuredly under the example "check pulse before giving Lanoxin." This is asinine. It is my job to determine when and how much of any drug is given. I see my patients twice a day and I know what their status is and any drug, whether it be Lanoxin or any other, will be monitored by me and not by the nurses, so this whole paragraph is entirely invalid.

A235, 405.1024(h)(6). 1. Registered nurses are giving medication without physician's written order; ie. Darvon, PRN, RN stated it is a "standing order", however, it is not written. 2. On four of six current records reviewed, orders were not countersigned by the physician. 3. Senior medical students preceptee medical orders, progress notes, and history and physical reports are not being countersigned by the physician.

Again, this section deals with nitpicking and if that is all these people have to do. I am glad they have some reason for drawing their salary although I would hate to go to bed at night realizing this was my only accomplishment in life

A256, 405.1025(b)(3). Some utensils in dietary area are stored in used cardboard boxes which can not be cleaned.

Again, utensils are not sterile, they are clean. I don't think it makes a great deal of difference whether they are stored in cardboard boxes or not. They will be replaced to satisfy the bureaucratic birds.

A260, 405.1025(b)(7). Potatoes and boxes of canned goods were stored on the floor; thereby preventing good cleaning methods.

Comment would be "ditto" to the above.

A300, 405.1026(g)(3). Provisional diagnosis is not being included in the clinical record when a patient is admitted to the hospital.

Provisional diagnosis is in the clinical record within 24 hours and it is in my head as soon as the patient is admitted, which is all that is required since I am the Attending Physician. It is not anybody else's business other than mine anyway.

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION—Continued

SUMMARY STATEMENT OF DEFICIENCIES NOTED BY SURVEYING STATE AGENCY WITH REFERENCE CITATION—Continued	PROVIDER'S PLAN OF CORRECTION WITH TIME TABLE—Continued
A318.	
A323, 405.1027 (a) (3).	
A344, 405.1027 (f) (2). 1. Registered nurses are refilling scheduled drug counter containers from bulk supplies. 2. Drugs in the emergency room are not being checked for proper storage and outdate. i.e. a.) 10 milliliter multiple dose vial of infectable Valium sitting on the counter, b.) Nine drugs outdated, c.) all medications not properly secured and emergency room unattending. 3. Several drugs in drug room had labels with only name and strength of medications. Two containers had tape labels with only name and strength of drug.	This will be complied with—however, again, I think it is more bureaucratic nitpicking as are all of these so-called deficiencies.
A327, 405.1027 (b) (3). Neither refrigerator in drug room contains a thermometer.	
A329, 405.1027 (b) (5). The drawer and refrigerator where schedule drugs are stored are single locked; the drug room containing all drugs is not locked when unattended.	
A341, 405.1027 (e) (1). There are no specific stop orders for anticoagulants, oxytocics, or cortisone products.	There are no specific stop orders on any drug unless I order them stopped. Again, I don't like this intrusion into my domain.
A342.	
A343.	
A346, 405.1027 (f) (1) (4). There is no documentation that a pharmacy and therapeutic committee are meeting at least quarterly.	I won't comment on this because the pharmacist is a professional man himself and he can deal with this. However, again, I don't feel it is of any consequence as far as patient care is concerned.
A344, 405.1027 (f) (2). There was no documentation that Pharmacy policies and procedures have been revised since 1971.	Ditto.
A356, 405.1028 (a) (4). Hemoglobin controls were not currently being used.	I am satisfied with the results of my lab and of course, in the end I am the one who needs to be satisfied.
Policies and procedures have not been established for quality control in urinalysis.	Ditto.
Abnormal coagulation controls were not recorded.	Ditto.
A391, 405.1028(j) (1). The blood storage temperature recording thermometer is out of order.	
A394, 405.1028(j) (4). Policies and procedures in blood bank quality control have not been established.	
A439, 405.1031(a) (11). Defibrillator and thoractomy set are not available in the operating suite.	Defibrillator. It is sort of asinine to expect anyone to use an electric defibrillator in the Operating Room with ether. I don't intend to blow my head off nor that of my staff, nor explode the patient. There are other methods of taking care of the situation if it should arise, and I am thoroughly aware of how to take care of asytole and ventricular fibrillation if it occurs, and I will continue to use ether since it is still the safest of all anesthetics. There have been no reports of deaths due to hepatitis as there have been a number of such reports with Halothane and Penthrane and since we have no operative deaths and no anesthetic deaths and no anesthetic complications for ten years and 2500 surgical cases, I think the result of this speaks for itself. I think it would be a good idea if some other institutions who are running higher in these categories than do we would consider the use of ether.
A442, 405.1031(a) (14). Rules and regulations and policies of the operating room are not posted or available in the operating suite.	Again, more bureaucratic nitpicking.
A508, 405.1033(d) (1) (vii). 1. Two of nine emergency room records reviewed did not contain disposition of the case. 2. One of nine records showed no patient's signature and six of nine records showed no nurse's signature, as required by the emergency room policies.	Again, I don't think any of this paper work and penciling would have added to the care of patients about whom records are being reviewed.

STATEMENT OF SENATOR CURTIS

Our small business community is fast becoming an endangered species because of government regulation.

With all of the attention we have paid in recent years to preserving our natural environment, I am amazed that we have not also made strides to improve our economic environment which is foundering because of the massive restrictions and regulations of the federal government.

We have far too many federal departments and agencies, with far too many regulations, restrictions and requirements which infringe on the freedom and liberties of the citizens. In terms of economics, the mass of government regulations is infringing on our time and ability for doing business.

Surely we can see the cost to small business and the nation in the volumes of regulations of such agencies as the Occupational Safety and Health Administration, the Environmental Protection Agency, the Food and Drug Administration, the Civil Aeronautics Board, the Interstate Commerce Commission and the Federal Power Commission.

Surely we can see the cost to small business and the nation in the thousands of required forms of such departments as Health, Education and Welfare, Labor, Commerce, Transportation and Treasury.

Surely we can see the cost to small business and the nation in the many reporting and accounting requirements of the Social Security Administration, the Federal Trade Commission, the Department of Housing and Urban Development, the Federal Communications Commission and the Internal Revenue Service.

Surely we can see the cost to small business and the nation in the voluminous, time-consuming study, investigation and reporting requirements of the Environmental Protection Agency, the General Services Administration, the Water Resources Council, and the Departments of Transportation, Housing and Urban Development, and Health, Education and Welfare.

Mr. President, according to the Small Business Administration, there are some six million enterprises in this country. That figures out to about one small business for every 38 people. Small businesses are the nation's number one source of jobs. They generate millions of dollars in revenue which is regenerated into the economy through wages, costs of operation and purchasing power.

The major contributions small businesses make to the nation should be cause for concern that the government not jeopardize small business. Yet, the massive bureaucracy is tragically suffocating small business through regulations, requirements, restrictions and endless amounts of paperwork and red tape.

In fiscal 1975 there were more than a quarter million bankruptcies in the United States. That was up from a low of only

about 10,000 at the end of World War II. The 254,484 individual and business bankruptcies of fiscal 1975 represented a 34 percent increase in just one year. Business bankruptcies have particularly increased in recent years, with a 45 percent jump in fiscal 1975 over the previous year.

Bankruptcy represents a blow to the economy when it occurs. In hearings held by the Senate Judiciary Committee on Bankruptcy Law reform last year it was pointed out that bankruptcy courts cancel $2 billion in debts each year. But, although debts may be cancelled, I think we are fooling ourselves if we don't think they have to be paid. The losses from bankruptcies are made up by higher costs to consumers and the public, as well as by those small businesses particularly that must absorb them.

I brought up bankruptcy here because I believe one of the major contributions to it is the mass of federal regulations, restrictions and requirements that are time-consuming and costly for small businesses to handle. If by reducing or eliminating much of the required federal paperwork we can save businesses, then I think we should proceed post haste with regulatory reform.

Mr. President, as an example of the effects federal regulations have on business and labor, I would like to cite from a June, 1975 report of the administrator of the Environmental Protection Agency to the Secretary of Labor. EPA and Labor had an inter-agency agreement whereby EPA reported periodically to Labor on job losses attributed to environmental regulations. In that report, the EPA said 108 plants claimed environmentally related actual or threatened job losses over the four year period of January, 1971 to March, 1975. The report said that actual closings or curtailments of production in 71 plants have resulted in the loss of approximately 12,560 jobs. Another 37 plants threatening to close or curtail operations could potentially dislocate an additional 33,850 workers, the report said.

Now, this is but one example of a federal agency keeping a record of its impact on businesses and jobs. What the EPA report didn't say was how much those closings and job losses cost the people and communities involved in terms of incomes and livelihoods, welfare roll increases, unemployment compensation, and economic effect in the communities. I'm not aware that any other agencies do a similar study, but can imagine that if the Occupational Safety and Health Administration, the Interstate Commerce Commission, the Federal Power Commission, the Civil Aeronautics Board, and the Department of Health, Education and Welfare and other federal agencies kept such records, the figures would be staggering.

The point I'm making is that the tremendous amount of paperwork, red tape and government regulation and restriction has a very real adverse effect on our small businesses, on jobs, and ultimately on the whole economy.

Small businesses themselves constitute 47 percent of all non-governmental, non-farm jobs and more than one-half of all Americans depend directly on small businesses for their livelihoods. Small businesses account for about 70 percent of the nation's retail and wholesale trade and more than 40 percent of the nation's production output.

I can cite numerous examples of specific situations in which the regulatory functioning of the federal government has affected small business.

The Interstate Commerce Commission has taken months and even years to process various motor carrier service applications of small and independent trucking operations. Delays of this type are common in the bureaucracy we have now and not only cost the firms money, but also cost consumers. The time has come for us to halt the slowness of government and return its efficiency. As a point in fact in one recent case in Nebraska, it took the ICC more than two years to process and issue a permit to a small business.

The Securities and Exchange Commission is pressuring small independent oil operators through a proposal which requires enterprises to be registered as broker-dealers and to belong to a national organization in order to sell only a small portion of interest in a $2,000 well. I have received numerous complaints over the past few months that the costs of drilling and the securities together is too much for the independent oil operators to remain in business.

Why should many of these small firms be driven out of business by legal and accounting expenses when their initial purpose was to drill for oil? It has reached a ridiculous point when the very government the people support and which is supposed to represent them places insurmountable restrictions on them and forces them out of a livelihood.

If the present trend continues, who will there be to find 80 per cent of the oil in the United States in the future? With the demise of the private, small operators, we will surely have to federalize the oil drilling and exploration operations in this country. I hope we can do it with greater success and economy than we have been able to achieve in delivering the mails or running passenger trains.

The Occupational Safety and Health Administration, which has victimized small businesses over the past years, is an excellent example of what can happen when bureaucrats get entangled in their own unmanageable red tape. Only recently did the federal agency issue any manageable form of its regulations which could be understood by the businessmen and others who were being cited and fined.

Even then, booklets summarizing the regulations in lay language have had to be issued for general industry, the construction industry and the longshore industry. The agency says others are forthcoming, but how are people to know what they are to be complying with if the agency itself cannot even compile a list of its own regulations governing particular industries?

The amount of federal over-regulation is so bad that businesses are often confronted with conflicting regulations among several agencies. Likewise, there have been numerous situations in which federal agencies have involved themselves in matters that are clearly not within their authority but are under the authority of other agencies.

In Nebraska at this time, the Federal Power Commission has delayed the construction of a 650 megawatt steam-electric plant that is badly needed for the state to meet its electricity demands by 1977. The Environmental Protection Agency, state environmental agency and federal district courts all upheld the construction plans of the plant as meeting environmental needs. Yet, the FPC has stopped and delayed construction for a year and a half at a cost of more than $100 million to the consumers and businessmen of Nebraska on the basis of environmental claims.

There are presently some 20 agencies dealing with the food industry, spending several million dollars worth of federal taxpayers' money each year and costing businesses, especially small ones, an estimated $40 million to fill out and file all the forms required by federal agencies.

To add insult to injury, the small business rent guarantee program has been scrapped in the 1977 budget, only 18 months after million-dollar losses were found in the program. The losses were attributed to bad administration and bungling in the bureaucracy, but have brought about the demise of a program which was designed to help obtain competitive locations for small businessmen who did not have credit on their own to qualify for locational financing.

A family doctor in northeast Nebraska was forced to close his practice after 20 years recently because of the increasing demands being placed on private enterprise by the federal bureaucracy in the form of reporting and filing requirements for Social Security, Medicare, Department of Health, Education and Welfare purposes and others.

The work load on rural physicians has increased rapidly in many areas, both because of an increasing patient load and because the number of physicians serving these areas is decreasing. Many small communities have found it hard to attract additional doctors even more so because of the paperwork requirements placed on them by the federal government.

Working initially with one assistant, the Nebraska physician had a staff of four persons battling constantly to keep up with forms and information sheets when he closed the office. The mountains of paperwork literally crowded the doctor out of his office and contributed to skyrocketing medical costs along with the erosion of quality medical care in the community. Residents of the small town now must travel a considerable distance to another community for medical care.

Instances like that of the Nebraska physician are occurring across the United States with increasing frequency. This is one more reason the runaway bureaucracy must be stopped from encroaching further into the lives of the citizens.

Another example of government red tape and paperwork which is hampering free exercise of private enterprise can be seen in the case of grocers.

According to government figures, more than 35 million man hours each year are required by retail food stores alone to complete various forms required for those businesses. There are some 2,100 different forms pertaining to food retailing.

Research and statistics show that more than 72 per cent of the small enterprises have fewer than 10 employees, whose time has to be devoted in considerable part to filling out the required forms. Large stores and chains might be able to hire additional personnel to take care of the mountain of federal paperwork, but the small ones face almost unrecoverable costs in this situation.

I have had complaints from various small stores in Nebraska whose owners and operators claim their businesses are being invaded by federal agencies which are requiring them to fill out forms to help with "timely information on the functioning of the economy." One of the Federal Trade Commission forms requires the businesses to detail financial statements and warns that the fine for non-compliance is between $1,000 and $5,000, and up to one year in prison for individuals. For corporations, the government levies $100-per-day fines. This represents unnecessary collection of proprietary data on businesses.

An eastern Nebraska manufacturing firm was fined $1,115 by the Occupational Safety and Health Administration for one serious and four non-serious violations. The company appealed the citations, claiming the improvements would place the company's building outside other OSHA regulations and would result in further citations.

While the appeal was still underway, OSHA inspectors cited the small firm again for failure to abate and the fine climbed to $10,500 for the serious violation and another $5,670 for the non-serious ones. That made the total fine $15,280, all while an appeal was underway by the 11-employee firm. This type of overbearing action by a federal agency

is crimping small businesses and must be stopped.

In another case involving OSHA, an awning manufacturing firm in Nebraska was fined $3,250 for not having a specific type of guard around its punch presses. The guards which the firm had were in compliance with Nebraska regulations. If the firm had installed those rquired by OSHA, the guards would not have totally met state requirements, and the firm was faced with the predicament of having to follow state or federal rules.

In a case involving the Internal Revenue Service, a woman operating a small surveying business found herself victimized when the agency changed her tax status without apparent basis. The IRS had ruled in 1965 that she did not have to pay employee taxes since the people she employed were not in-office workers, but rather worked in the field on a very part-time basis, sometimes on a volunteer basis.

The IRS assessed the woman, without warning, $81,000 in back withholding and other taxes. Earlier IRS records showed that the firm was in compliance with tax laws, and lawyers for the firm established that other similar operations which were performing the same service were not paying the employee taxes.

This type of bureaucratic bungling exemplifies the heavy-handed way many federal agencies are dealing with small businesses across the United States.

I have had numerous complaints from Nebraska insurance men who are now required to disclose their commission figures on sales. No other industry is required to make such disclosures. Most insurance agencies are small concerns, and the unnecessary regulation is hampering the exercise of free enterprise.

The effects on small business are also being felt through the actions of the Federal Trade Commission, which recently effected new regulations governing the sale of used cars. According to the rules, dealers must make all defects in the cars known, must have available the previous owner's name and title, must offer a warranty and certify the vehicle is in first-rate shape according to FTC guidelines.

The regulations place a new burden on the small businesses, but do not cover individual persons selling cars on their own. This regulation is discriminatory. It seems doubtful that any used car dealer could certify that nothing is wrong with a vehicle. Used cars are just that—used—and as such, the buyer should understand that there may be flaws in the vehicle.

The overriding point in this entire discussion today is that the federal bureaucracy is stiffling small businesses across the country. Small businesses are the basic strength of the American economy and an integral part of it. Small businesses and the people operating them have shown an excellent operational record, both in financial and business terms, through the years.

The very agencies, bureaus, departments and commissions which are now over-regulating and suffocating them in red tape and voluminous regulations, have not been as successful as small business themselves. The bungling, uncontrollable bureaucracy must be brought to manageable proportions before it destroys the basic business structure from which it should take a lesson—one of a common-sense operation on a manageable level.

The PRESIDING OFFICER (Mr. CULVER). Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Was 10 minutes of the time of the Senator from Maryland (Mr. BEALL) assigned to the Senator from Idaho?

The PRESIDING OFFICER. The Senator from Idaho has 10 minutes following the order for the recognition of the Senator from New York.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. McCLURE. Is the Senator speaking on regulatory reform?

Mr. JAVITS. No, I am going to speak on genocide.

Mr. McCLURE. I wonder if we could keep the continuity. Is the Senator pressed for time?

Mr. JAVITS. I am, unfortunately, but I ask unanimous consent that my remarks follow all the statements on regulatory reform in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM

Mr. McCLURE. Mr. President, a small business is by definition just that, small. The success of such a business is related to the specialized expertise of its modest staff, the dedication of a single owner-entrepreneur and the inherent flexibility or freedom of action which such organizations have historically displayed.

Federal regulations and the reporting requirements associated with them divert the attention and energies of these small businesses away from the critical variables of marketing, production, finance, and customer service. Employees must be either spread more thinly or augmented at high cost in response to expanding regulatory demands. The normal result is that customers receive less satisfactory service or pay a higher price for the same level of service. To the extent that prices rise, the small business begins to lose the competitive advantages which pricing and service had formerly provided.

In much the same way, regulation which forces national standards of compliance reduces the historic flexibility with which small business has faced in a changing environment. Policies and procedures become increasingly rigid and the scope of activities to be undertaken by the entrepreneur becomes progressively more limited.

What is so often overlooked is that regulation hampers small business to the benefit of big business. When someone talks about the close relationship between business and regulators, they mean big business. What I want to discuss is a far more problematic series of subtleties involved in the big business/small business competition, or lack of it, under regulation. The cause is intrinsic in the nature of regulation itself.

I would like to read a letter from one of my constituents, a small businessman:

For some time now, we have been meaning to write you about the growing burden of work which regulations promulgated by federal agencies have imposed on small businessmen like ourselves. We are not talking about the laws passed by Congress, but the outrageous volumes of regulations, imposing horrendous requirements where the substantive purpose of the enabling statute has been lost sight of by the enforcing agency.

In the last few months, our company has revised its warranties to comply with the first round of regulation under the Magnuson-Moss Warranty Act, and has been revising its credit forms to comply with the Truth-in Lending Act, the Fair Credit Billing Act, the Equal Credit Opportunity Act and all of the regulations issued under those Acts. In each case, the result of the revision was to make the piece of paper the consumer receives longer, more detailed and less comprehensible than the form it replaced.

There is another aspect of excessive regulation of business. We buy some tires from Goodyear and also compete with Goodyear on a retail level. Both Goodyear and our company have to hire attorneys to figure out how to comply with federal regulations, to figure out which disclosures must be in the form the regulatory agencies require them to be made and which may be varied by the individual merchant, and to keep track of which laws are applicable as of which date. But Goodyear can spread this cost of doing business over a much broader retail base.

Similarly, the cost of printing new forms is largely in setting up the type. The incremental cost for each of the last 990,000 copies of a new form required by a federal regulation is much less than the average cost of each of the first 10,000 copies which the small businessman must buy. There are enough economies of scale which give an economic advantage to the large business over the small business without the Federal Government's regulations giving this aid to the creation of oligopolies.

In other words, the system works like a regressive income tax. The smaller the business the higher a proportion of its resources will be consumed in complying with Government requirements—and the more likely it will fold, leaving that Government to wonder what it can do to increase competition. While it wonders, the regulatory machinery will turn like prayer wheels, oblivious to the fact that it is diminishing competition.

At the same time regulators are either unaware or unconcerned about State regulations violated by each new Federal regulation. A wary constituent has asked me:

Why should the burden fall on the small businessman to sort out the inconsistencies between these regulations? It is our public servants who have created this mess of conflicting regulation; why should it not be their responsibility to extricate us from it by providing forms which certifiably comply with both sets of regulations?

Mr. President, it is interesting to note how the satisfaction of the small business is closely tied with the satisfaction of the consumer. In our last colloquy I spoke of the effect on the consumer when an Idaho small business closed its consumer credit accounts because of the difficulty—and in some cases impossibility—due to the lack of adjudicated cases—of complying with the law. But we should also consider the bsuiness itself. In that instance, the company was so small that the effect of the new regulations was to force prices up about 2 percent. They could not afford to stay in business after a serious fine, yet the lawyer from the Federal Reserve Board told them that the law was uninterpretable until there were court decisions. Now, a small businessman may be adventurous but not to the point of doing 3 to 5 years

for a miswritten form. The company had no choice but to suspend consumer credit operations. Future customers will obviously be more attracted by the retail outlet which gives credit along with all the other services. Any business which can afford the fines and prorate its expenses over a broad base is the one which will attract those customers. Big business wins again. That is when it becomes a consumer issue as well.

A citizen of Gooding, Idaho, tells me of an unsolicited communication he received from his bank telling him that if he desired information about his real estate loan he should call the bank. Thinking naturally that the bank must be communicating about something he called and asked what might have changed. Oh, no, the bank assured him, no problem, they were simply required to send out the meaningless communication by HEW. Said my friend:

> Now, Senator, is this an affront to my intelligence or is the post office just trying to sell more of its high priced stamps? Do the people in Washington realize that these needless actions only add millions to consumer costs?

From that you get some idea of the small business climate in 20th century America.

But the small businessmen in Idaho would never forgive me if I were to discuss Government regulation and neglect OSHA. There is probably no piece of legislation responsible for more hardship, more lost jobs, more unhappiness and frustration than this one act. It is the prime example of how the ingenious mind of man is increasingly stifled by the mindlessness of the regulators.

There are still some who figure out how to beat the rap. One blasting company, having discovered that OSHA regulations regarding signs were directly contradictory to those of another agency, stationed a man with a radio at the entrance to their establishment. Accordingly, whoever the inspector was that day, the signs were arranged to please his agency. But another small businessman curtailed his own operation because of a regulation which demanded that he put a railing all around an elevator lift. He could put the railing on, but nothing could then be moved either on or off the lift.

Mr. President, I would advise anyone unfamiliar with English to stay away from OSHA's definitions. If such a man is indoors and a fire starts, and he sees the word "exit" over a door, he may have time to get to Webster's and discover that an exit is a "passage or way out." But if he turns to OSHA regulations he will find that an exit is:

> That portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to protected way of travel to the exit discharge.
>
> The means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.
>
> Exit discharge is that portion of a means of egress between the termination of an exit and a public way.

I very much fear that by the time he had discovered any meaning to that the discovery would be academic.

Safety is obviously important. The real question is how much of it is whose responsibility? Robert Stewart Smith has written a thoughtful study of the problem in which he includes a story he calls a safety fable. The fable examines the social and market effects of Government regulation. The presentation is imaginative, but the principles valid. I recommend it to my colleagues and ask unanimous consent that it be printed in the RECORD at this point. But remember in reading it that some of the comparisons are illustrative only and cannot be taken literally. It should also be noted that the trade-off between economics and happiness demands a very broad and somewhat strained definition of the term "hapiness."

There being no objection, the story was ordered to be printed in the RECORD, as follows:

CHAPTER II—THE SOCIAL GOALS OF AN OCCUPATIONAL SAFETY AND HEALTH PROGRAM

"I can't believe that!" said Alice.

"Can't you?" the Queen said in a pitying tone. "Try again: draw a deep breath and shut your eyes."

Alice laughed. "There's no use trying," she said: "One can't believe impossible things."

"I daresay you haven't had much practice," said the Queen.—Through the Looking-Glass and What Alice Found There.

The safety and health mandate under the Occupational Safety and Health Act has been shown to be virtually unqualified: only in the event that almost an entire industry would have to close down would the courts rule that a technically possible hazard abatement program is "unfeasible." Is the goal of near-absolute safety socially defensible in a society seeking to advance the general welfare? Just how much safety is "enough" in our society? Is it being provided? These questions cannot be easily answered, nor should an answer be attempted without reference to an explicit theory of social welfare. The purpose of this chapter is to sketch such a theory, which is then used (1) to suggest the conditions under which governmental safety and health programs would be required to advance the general good, (2) to consider the need for such programs in the U.S. economy, and (3) to establish some rules which can be used to guide governmental decisions in the safety and health area. We begin with a fable.

A SAFETY FABLE

In the oral tradition kept alive by some economists there exists a fable about an unknown—perhaps lost—kingdom in which there was no need for the government to institute an occupational safety and health program. The intriguing aspect of this fable is that, in this kingdom, selfish trolls owned and operated all the businesses. These trolls were thoroughly self-serving creatures who cared not at all about the safety, per se, of the gnomes who worked for them. The only thing the trolls did care about was mining their pockets with as much gold and silver as possible.

The gnomes were frightened by the motives of the trolls, and angered by the risks they faced on their jobs. So they petitioned the good king, who ruled the land wisely, crying, "Your Highness! The trolls care not for our safety at work. They care only for themselves and the gold and silver they have. Please help us improve the quality of our lives!" The king appointed a Royal Commission on Work Safety to investigate these charges, and six months later (remember, this is a fable) the commission delivered its report.

The report confirmed that trolls were selfish profit maximizers who never even felt sad when a gnome was injured or killed on the job. The report further stated that trolls, though unfeeling, did provide some safety for their employees; however, they only reduced hazards if it was profitable to do so. Injuries, it seems, were costly to the trolls. Other gnomes stopped work to help out the victim, so production was lost. A replacement had to be trained to fill in for the injured gnome, and this the trolls found costly. Often damage to the troll's machinery accompanied a work injury. And, of more importance, trolls with the most dangerous factories had to pay higher wages for the same gnomes employed by others. The reasons these "risk premiums" existed were listed by the commission as: (1) the gnomes knew the risks they faced in each factory, (2) not all trolls found it profitable to offer only dangerous work, and (3) gnomes had a wide choice of jobs. Therefore, in order for a troll offering relatively dangerous work to attract enough gnomes, he had to pay a wage rate high enough to compensate gnomes for the increased risks they faced in his factory. Gnomes insufficiently compensated for the higher risk took jobs in safer factories.

The above costs provided incentives for the trolls to improve safety, but improving safety itself consumer resources. The trolls, in trying to produce at minimum cost, provided enough safety so that the sum of injury costs and injury prevention costs were as small as possible. This kept prices down, but it did mean that injury rates were different in every factory, depending on the costs of injuries and their prevention.

The report strengthened the will of the gnomes to demand more safety. They petitioned the king, saying, "The Royal Commission has confirmed what we told you. Trolls only provide safety when it is profitable. Economic needs cannot be allowed to prevail over gnome needs, and we beseech you to force the trolls to eliminate all hazards so that no gnome need face danger in the factory again!" The kindly king agreed, and an order banning all conceivable occupational hazards was issued. "Long live the king," shouted the gnomes. "Long live the gnomes," shouted the king in return.

Trolls everywhere were alarmed. Trolls building and repairing bridges (troll bridges, of course), for example, could not even begin to reduce hazards to zero. Bridge buildings and repairing therefore stopped. Trolls who built houses found it was possible to reduce all hazards, but it was not profitable to do so at prevailing prices. (After all, if it had been profitable to do so, it would already have been done.) Housing prices were increased, and some trolls left the construction business and invested their funds in royal bonds. Only industries where hazards had already been eliminated before the decree were unaffected by the phenomena of rising prices, business failures, and unemployment. Trolls were not merely absorbing the extra costs of safety in their profits, but passing these costs on to consumers.

Gnomes were numb with surprise. Their greater safety was being bought at the expense of fewer houses and bridges. How were they to live? How were they to visit their relatives if bridges could not be built or repaired? What had happened was not at all what they had expected, and they were confused. Although most unemployed gnomes eventually found work in factories making safety equipment, this equipment could not be consumed directly. There was more "safety" being produced now, but fewer other things.

Lack of open bridges and the shortage and expense of housing particularly bothered

The House of Representatives has an opportunity to put this fundamental reform into effect with an amendment to provide that each contribution of up to $100 would be matched with public funds derived from the voluntary dollar checkoff on personal income tax returns.

When public financing of Congressional campaigns was voted upon two years ago, it twice won approval in the Senate but was defeated in the House, 228 to 187. The composition of the House has changed markedly since that vote was taken. Approximately 220 members from both parties are on record as sponsors of various public financing bills. If they make good on their pledges, the nation's political life can yet move out of the financial swamp in which it has been mired for too long.

(Mr. MELCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. MELCHER's remarks will appear hereafter in the Extensions of Remarks.]

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. HECHLER of West Virginia's remarks will appear hereafter in the Extensions of Remarks.]

RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 12774

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on March 30, 1976, the Committee on Ways and Means ordered favorably reported H.R. 12774 with amendments. This bill would amend the Internal Revenue Code of 1954 to provide an election under which State and local governments may issue taxable obligations and receive a Federal subsidy of 35 percent of the interest yield on such obligations.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of H.R. 12774 on the floor of the House.

The committee instructed me to request the Committee on Rules to grant a closed rule for consideration of H.R. 12774 which would provide for committee amendments which would not be subject to amendment and which would provide for 2 hours of general debate to be equally divided, and which would provide for the usual motion to recommit.

We intend to file the committee report on H.R. 12774 by midnight, Wednesday, April 7, 1976.

INTRODUCTION OF BILL IMPLEMENTING CONVENTION TO PREVENT AND PUNISH ACTS OF TERRORISM AND CONVENTION ON PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS

(Mr. WIGGINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WIGGINS. Mr. Speaker, today I am introducing, at the request of the Attorney General and the Secretary of State a bill to amend title 18 of the United States Code to implement the "Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance," and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents." The Senate advised and consented to ratification of the first-named convention (Senate Executive D, 92d Cong., 1st Sess.) on June 12, 1972. The second of the two conventions was transmitted to the Senate on November 13, 1974 (Senate Executive L, 93d Cong., 2d Sess.).

The primary purpose of this bill is to amend the Federal criminal law to give the U.S. Government the authority to prosecute those who commit, or attempt or conspire to commit, a crime of violence against a representative of a foreign government. The prosecution of such crimes is normally the responsibility of the States. However, these persons, and their well-being, are an important element in carrying on our foreign affairs. The Federal Government must assume the responsibility of affording to foreign offices certain consideration not afforded to our own citizens. This bill will complement and supplement existing Federal laws in this area.

However, I am constrained to say, that several sections of this bill as presently drafted are troubling to me. The bill goes beyond the proscription of violent crimes, to make criminal, in the broadest terms, "harassing" these foreign representatives. It makes criminal what amounts to the harassing of a building, all or part of which is used by them.

The Constitution guarantees to all citizens the right to speak and the right to assemble. When this bill is considered in committee, the spirit, the letter, and the meaning of the first amendment must be clearly and firmly held in mind. Any law which, under certain circumstances, makes the utterance of a word, the posting of a handbill, or the carrying of a sign a Federal criminal offense, must be drafted with care, with caution, and with the greatest circumspection.

Following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS—MURDER OR MANSLAUGHTER OF FOREIGN OFFICIALS, OFFICIAL GUESTS, OR INTERNATIONALLY PROTECTED PERSONS

Section 2 revises section 1116 of title 18, United States Code, to conform with the United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the Organization of American States Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance.

Subsection (a) of section 1116 prohibits the killing or attempted killing of foreign officials, official guests, or internationally protected persons. The penalty provisions of sections 1111, 1112 and 1113 are made applicable except that the penalty for first degree murder is imprisonment for life, thus conforming with *Furman* v. *Georgia*, 408 U.S. 238 (1972). The penalty for attempted murder, not more than twenty years, parallels that for assault with intent to commit murder (18 U.S.C. 113) as being more appropriate than the three years otherwise applicable under 18 U.S.C. 1113.

Subsection (b) of section 1116 defines terms used in the section.

Paragraph (1) of subsection (b) defines "family" in the same manner as the existing 18 U.S.C. 1116(c)(3) except that the term internationally protected person is added. The conventions do not define this term, but the understanding of the United States of its convention obligations for family members must be taken as reflective of the term in existing law.

Paragraph (2) of subsection (b) defines "foreign government" precisely as the existing 18 U.S.C. 1116(c)(1) defines the term.

Paragraph (3) of subsection (b) defines the term "foreign official" the same way as 18 U.S.C. 1116(b) now defines the term. Note that the definition includes chief executive officers of an international organization as well as persons who have previously served in such capacity and any member of their families. Since United States citizens can serve in such capacities, both they and their families can fall within the technical definition of "foreign official."

The issue has been raised in the appeal of *United States* v. *Spirn*, No. 74-2490 (2d Cir.), whether the foreign official must be personally present within the United States at the time of damage to his personal property, 18 U.S.C. 970 (incorporating the definition of "foreign official" by reference), or attack on members of his family, 18 U.S.C. §§ 1116, 1201 and 112. We believe that the intent of Congress is clear in this respect; that once the person has been duly notified to the United States as an officer or employee of a foreign government or international organization, short sojourns in other countries for vacations, conferences, etc., do not vitiate the protection afforded his family or property remaining in the United States. Consequently, an amendment is unnecessary.

Paragraph (4) of subsection (b) defines "internationally protected person" as a Chief of State or the political equivalent, a Head of Government, or a Foreign Minister outside of his own country, as well as any member of his family accompanying him. The definition also encompasses any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who is entitled pursuant to international law to special protection as well as members of his family then forming part of his household. The difference in protection of family members is a result of the difference in protection under the United Nations Convention.

The definition is meant to parallel that found in the United Nations Convention definition of "internationally protected person." There the term was defined as:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, free-

dom or dignity, as well as members of his family forming part of his household. . . .

The term "internationally protected person." overlaps significantly with the term "foreign official." In essence, the former term is needed only to define that class of persons in whose favor operate the extra-territorial jurisdiction provisions of this statute.

The offender's knowledge of the status of the victim is not required, *Cf. United States* v. *Marcello*, 423 F.2d 993 (5th Cir.), cert. denied, 398 U.S. 959 (1870). Any uncertainty whether a particular victim is afforded special protective status under international law relates to jurisdiction only; it does not raise due process questions of notice or vagueness. *Cf. United States* v. *Irick*, 497 F.2d 1369 (5th Cir 1974). The substantive crimes are defined in traditional terms which afford the requisite fair warning of the conduct prohibited. *Cf. Bouie* v. *City of Columbia*, 378 U.S. 347, 350–51 (1964).

Paragraph (5) of subsection (b) defines "International Organization" the same way as the extant 18 U.S.C. 1116(c)(2).

Paragraph (6) of subsection (b) defines "Official Guest" the same as the existing 18 U.S.C. 1116(c)(4).

Subsection (c) of section 1116 provides that if the murder or attempted murder was against an internationally protected person, then the United States may exercise jurisdiction if the alleged offender is present within the United States regardless of the place where the offense was committed or the nationality of the victim or the alleged offender. The subsection is intended to establish jurisdiction in the cases enumerated in Article III of the United Nations Convention:

"1. Each State Party shall take such measures as may be necessary to establish its jurisdiction . . . in the following cases:

"(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

"(b) when the alleged offender is a national of that State;

"(c) when the crime is committed against an internationally protected person as defined in article I who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

"2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him . . . to any of the States mentioned in paragraph I of this article."

The United States for the purposes of subsection (c) includes all areas under the jurisdiction of the United States including the places within 18 U.S.C. 5 and 7 as well as 49 U.S.C. 1301(34). Thus a person is present within the United States if he is, for example, on board a ship belonging to the United States, or present elsewhere in territory under the jurisdiction of the United States. The word "present" is used to capture those cases in which an offender is discovered in a foreign jurisdiction and then compelled to enter the jurisdiction of the United States

As to jurisdiction wherever the offense is committed when the offender or victim is a United States national, the question of its application is, of course, one of construction, not of legislative power. See *Blackmer* v. *United States*, 284 U.S. 421, 437 (1932); *United States* v. *Bowman*, 260 U.S. 94, 96–102 (1922). Also see *United States* v. *Erdos*, 474 F. 2d 157 (4th Cir.), cert. denied, 414 U.S. 876 (1973). Moreover, the assertion of jurisdiction in this instance as well as when the offender is present in the United States, wherever he may have committed his offense, is in proper discharge of duly adopted international obligations of the United States under the conventions and is further supportable as an exercise of the power "[t]o define and punish . . . offenses against the law of nations." U.S. Const. Art. I, sec. 8, cl. 10. Precedent for exercise of such jurisdiction is 18 U.S.C. 1651 (piracy) and Pub. L. 93–366 (aircraft piracy).

Nothing in the subsection is meant to prevent the orderly extradition of offenders.

Subsection (d) of section 1116 is a response to the recognition that exigent circumstances involved in a terrorist takeover of an embassy, for example, may require the Federal Bureau of Investigation, through the Attorney General or his designated Assistant, to request assistance from other Federal, State, or local agencies, as well as the Departments of the Army, Navy or Air Force. The potential consequences of an attack in the United States upon a foreign official or official guest are sufficiently grave to warrant inclusion of this provision which parallels similar provisions (18 U.S.C. 351(g) and 1751 (i)) relating to attacks upon Members of Congress, the President, or Vice President. See also Pub. L. 90–331, June 6, 1968, 82 Stat. 170, § 2.

Section 3 makes the necessary amendment to the chapter analysis of Chapter 51 of Title 18 to reflect the inclusion of the term "internationally protected person" in the section.

KIDNAPING

Section 4 includes the class of internationally protected persons within the purview of section 1201 of title 18 and provides the convention-required extension of jurisdiction over extra-territorial kidnappings and attempted kidnappings.

Subsection (a)(4) of section 1201 is amended by adding the term internationally protected person. Neither the UN nor the OAS Convention explicitly excludes the abduction of a minor child by his parent. The United States, however, understands the generic term "kidnapping" to exclude such an abduction. Consequently the usual exception is applicable when the victim is an internationally protected person, foreign official, or official guest.

Subsection (d) of section 1201 is new. It makes attempted kidnapping a crime This is necessary because, first, the United Nations Convention requires that attempted kidnappings of internationally protected persons be made criminal. Second, and perhaps more importantly, attempted kidnappings of any person should be made criminal if the attempted act falls within the purview of subsection (a). The penalty of not more than twenty years for attempts is consistent with the like provision for attempted murder.

Subsection (e) of section 1201 provides for jurisdiction over extra-territorial kidnappings or attempts. The subsection is the equivalent of section 1116(c) and required by the United Nations Convention.

Subsection (f) of section 1201 provides that in the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate that subsection, the Attorney General may request assistance from any Federal, State or local agency. The subsection is the equivalent of section 1116(d).

PROTECTION OF FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS

Section 5 amends section 112 of title 18, United States Code, to include internationally protected persons within the purview of that section.

Subsection (a) of section 112 adds internationally protected persons to the persons covered by the subsection. Although probably already included in the concept of assault, section 5 adds to existing provisions the UN Convention language relating to attempts and violent attacks upon the premises, private accommodation, or means of transport of an internationally protected person foreign official, or official guest likely to endanger his person or liberty. The inclusion of the word "imprisons" in this subsection and the word "confines" in section 1201(a) produces a degree of overlap between sections 112 and 1201. This assures coverage of all forms of unlawful interference with liberty while at the same time affording the prosecutor a reasonable amount of discretion to charge a particular interference under the section which best reflects the gravity of the interference.

Subsection (b) of section 112 remains unchanged. Neither the UN nor the OAS Convention requires criminal sanctions for intimidation, coercion, or harassment of internationally protected persons at least until such activity rises to the level of an assault (18 U.S.C. § 112(a)) or threat (18 U.S.C. § 878(a)).

Subsection (c) of section 112 is unchanged except for omission of the requirement that the prohibited act be done publicly. On a number of occasions demonstrators have occupied the office of a foreign official and engaged in various forms of obnoxious conduct. In terms of 18 U.S.C. 112(c), this raised the problem whether such actions had the requisite quality of being done "publicly."

The hundred foot zone is measured from the outside perimeter of the building. Thus, if prohibited activities take place on the grounds within one hundred feet of the building, the proscriptions become active even though the foreign official or his office is more than one hundred feet from the ground in the upper stories of the building. Similarly, the proscriptions of the section are meant to become active if the demonstration occurs within the building.

Subsection (d) of section 112 adopts the appropriate definitions from section 1116(b).

Subsection (e) of section 112 is an express disclaimer of first amendment infringement. There is no change from the present law.

Subsection (f) of section 112 provides for jurisdiction of crimes committed extra-territorially if the offender commits a crime under subsection (a) and if he is later present within the United States. The provision is the same as that found in sections 1116(c) and 1201(e).

Subsection (g) provides that in the enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate that subsection, the Attorney General may seek assistance from any Federal, State, or local agency. The provision is the same as that found in sections 1116(d) and 1201(f).

Section 6 amends the analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 112 to include internationally protected persons.

PROTECTION OF PROPERTY OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Section 7 amends section 970 of title 18, United States Code, by inserting a new subsection protecting the integrity of buildings used by foreign governments or international organizations.

Subsection (c) of section 970 incorporates the appropriate definitions found in section 1116(b).

Subsection (b) of section 970 is new. It prohibits forcibly thrusting an object or oneself within or upon any building or premises occupied by a foreign government, an international organization, a foreign official, or an official guest. The subsection is a logical extension of protection afforded property of foreign persons, organizations, and governments.

Subsection (b)(2) of section 970 penalizes the refusal to depart from any building or premises described in subsection (b)(1) when requested by an employee of the foreign government, the international organization, or by the foreign official or a member of his staff, or by any person present having law enforcement powers.

THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS, OFFICIAL GUESTS, OR INTERNATIONALLY PROTECTED PERSONS

Section 8 amends chapter 41 of title 18, United States Code, by adding a new section 878 prohibiting threats and extortion against foreign officials, official guests, or internationally protected persons.

Subsection (a) of section 878 prohibits the knowing and willful threat to kill, kidnap, or assault a foreign official, official guest, or internationally protected person on pain of not more than $5,000 fine or imprisonment for not more than five years, or both, except that imprisonment for threatened assault shall not exceed three years. The three year limitation is consistent with the punishment for actual assault.

Subsection (b) of section 878 prohibits extortionate demands in connection with the killing, kidnapping, or assaulting as well as threats to kill, kidnap, or assault a foreign official, official guest, or internationally protected person.

Subsection (c) of section 878 incorporates the appropriate definitions of section 1116(b).

Subsection (d) of section 878 provides for the exercise of United States jurisdiction over a violation of subsection (a) committed extra-territorially against an internationally protected person if the offender is present within the United States. The subsection is the equivalent of sections 1116(c), 1201(e), and 112(f).

Section 9 amends the analysis of chapter 41 of title 18 to include the new section on threats and extortion against foreign officials, official guests, and internationally protected persons.

Section 10 indicates that nothing in this Act is intended to preempt the laws of any State, Commonwealth, territory, possession, or the District of Columbia on the same subject matter.

Section 11 amends section 11 of title 18, United States Code, to ensure that the limited definition of "foreign government" in 18 U.S.C. § 1116(2) is applied to sections 112, 878, 970, 1116 and 1201.

THE LATE HONORABLE WRIGHT PATMAN

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on March 7, 1976, the Nation lost one of the greatest Americans in this century, our colleague, Wright Patman. He was a champion of the people, dedicated to his country, the House of Representatives, and to the State of Texas. There have been many tributes paid to Wright Patman, but few so impressive and moving as those given by his colleagues and friends at his funeral services at the First Baptist Church in Texarkana, Tex., on March 10. I am pleased to insert these beautiful tributes so that all may have the opportunity to read them.

TRANSCRIPT OF THE FUNERAL SERVICE FOR THE HONORABLE WRIGHT PATMAN, REPRESENTATIVE IN CONGRESS FROM THE FIRST DISTRICT OF TEXAS FROM 1928 TO 1976

(First Baptist Church, Texarkana, Tex., March 19, 1976)

DR. LORY HILDRETH (PASTOR, FIRST BAPTIST CHURCH)

Reading from Psalm 93 and also a portion of the 95th Psalm. The Lord reigns, He is clothed with majesty. The Lord has clothed and girded himself with strength. Indeed the world is firmly established. It will not be moved. Thy throne is established from old. Thou art from everlasting. The floods have lifted up, O Lord. The floods have lifted up their voice. The floods lift up their pounding waves, Lord, of the sounds of many waters. The Lord on high is mighty. The testimonies are fully confirmed. Holiness befits Thy house, O Lord, forevermore. O come let us sing for joy to the Lord, let us shout joyfully to the rock of our salvation. Let us come before His presence with thanksgiving. Let us shout joyfully to Him with psalms for the Lord is a great God and a great King above all Gods in whose hands are the depths of the Earth; the peaks of the mountains are His also. The sea is His, for it was He who made it and his hands formed the dry land. Come, let us worship and bow down, let us kneel before the Lord our Maker for He is our God and we are the people of His pasture and the sheep of His land. Today, if you would hear His voice harden not your heart. May we pray:

Our Father, Thou are a great God and greatly to be praised. How excellent is Thy name in all the Earth from everlasting unto everlasting. Thou art God and beside Thee there is no other. We in disposition of mind and heart today would so commit ourselves in this situation of grief to Thee. That in relationship to the loved ones, in relationship to honored associates, in relationship to thoughtful friends that we would know Thy presence, we would hear Thy voice, we would know the sustaining of Thy grace, we would experience the undergirding of everlasting arms. And as this experience becomes a real experience of worship, may all the high and holy motivations that would stir us today be not forgotten in the moments that shall be followed but in new commitment in all we have and are, we shall give ourselves unsinningly to leading our nation and the people within the realm of influence of our lives to recognize that blessed is the nation whose God is Jehovah. Through Jesus Christ our living Lord and for His glory, Amen.

REPRESENTATIVE MAHON

There being no formal introduction, perhaps I should first identify myself. I am George Mahon. Representative in Congress, from Lubbock, Texas. And I stand at this lecturn in this holy place because I have served longer in the Congress of the U.S. with our departed friend than any Member of the present Congress. And so I speak to you in that capacity. And I am sad with you over our loss and I rejoice with you over Wright Patman's service to our nation. When our plane landed from Washington I observed the bright day and I thought to myself that today's shining sun must undoubtedly be a blessing and a benediction from Heaven upon the services to humanity of one Wright Patman.

So I rise to pay tribute to the memory of this departed friend, who at the time of his death in point of service in Congress had been Dean of the Texas Delegation in Washington for 15 years. He had been Dean of the House of Representatives and Dean of the entire Congress for nearly 4 years. He had served this District Number One in Texas for 47 years, the length of his service having only been exceeded by three other men in the history of the House of Representatives: Carl Vinson of Georgia, Emmanuel Cellar of New York, and the great Speaker Sam Rayburn.

Wright Patman not only served long, more importantly my friends, he served well. He wrote a record of legislative achievement as Chairman of the Banking and Currency Committee of the House, as Chairman of the Small Business Committee, as Chairman of the Joint Economic Committee and in other capacities which rivals the record of any Member of the House in this century or in any period of our history. He was the warm and trusted friend of the little farmer, of the small businessman, of the veteran, and of all the little people of this land. Indeed, I expand that statement, he was a friend of man, rich and poor alike—a man of compassion who loved his family, who loved the Congress, who loved this Country. The body of this fearless man was flown last Sunday night to his beloved Texarkana and the First District of Texas. We, of the Congress, and other friends, headed by Speaker Albert, have come to Texarkana today on the wings of the morning to join in honoring the memory of a great legislator and a great personal friend. So I have spoken to you for the Texas Delegation, for the Speaker and for the entire Congress, humbly in my new capacity as the Dean of the House of Representatives. Speaking from the standpoint of the House of Representatives on this occasion, let me say to the friends of Wright Patman in this Congressional District that we revered your fearless hero—and he was your hero—your effective and beloved Wright Patman from Patman's Switch, as he often was wont to say; and we join in mourning the passing of this great man and in rejoicing over his superb accomplishments through a long, distinguished period of service. A personal note if you please: I shall sorely miss my warm friend of more than 40 years. Mrs. Patman, you and your family have our love and sympathy.

May God extend His mercy, His blessings and His benediction upon all of us today. Thank you.

It is now my pleasure to present the eloquent and distinguished Representative Jim Wright of Fort Worth, who will deliver a eulogy in regard to the work and life of our departed friend. Mr. Wright.

CONGRESSMAN JIM WRIGHT

We come not only to mourn Wright Patman's death but in a larger sense to celebrate his life. The grief we feel at the loss of our friend must be swallowed up in exaltation when we ponder how perfectly Wright Patman today could declare that apostolic affirmation:

I am now ready to be offered,
And the time of my departure is at hand.
I have fought a good fight,
I have finished my course,
I have kept the faith.

Few if any of our time or of our memory have followed their convictions so undeviatingly as Wright Patman.

Few so unflinchingly have fought their fight and kept their faith.

Few if any have served the humblest of their fellow creatures so untiringly.

Few have given of themselves so unsparingly.

Few have dreamed the imposible dream so determinedly, resisted invincible foes so joyously, handled life's disappointments so gracefully and preserved their basic ideals so uncompromisingly throughout a lifetime.

Early in life Wright Patman determined to be a People's Man—a servant of the public. And thus began a lifelong love affair with the plain and simple, unpretentious average men and women of this land who sensed with some unerring instinct that here was a man whom they could trust.

And trust him they could. When he talked with crowds, he kept his virtue. When he walked with kings, he kept the common touch. He often comforted the afflicted. And sometimes he afflicted the comfortable. Wright Patman pandered to neither the avarice of the rich nor the prejudice of the poor.

It took rare courage in the 1920's for a first term congressman to assault the bastions of the nation's economic power and to file a resolution of impeachment against the Secretary of the Treasury, Andrew Mellon. And it took rare courage in 1920 for a young man to oppose the Ku Klux Klan in the rural south. Wright Patman did both.

A full half century later, in the 1970's, still

unimpressed by wealth, still unawed by power, unchanged by the tinselled trappings of the Washintgon scene, his ideals untarnished and his vision of duty still unblurred, Wright Patman still was waging the same courageous—and sometimes lonely—battles.

If there be those who seriously question that individual integrity can survive in the political environment, let them look at Wright Patman's public years—and marvel at the incorruptibility of his dream.

Because of his life labors, the nation is richer and literally millions of our fellow Americans have found it easier to overcome life's barriers—easier for thousands of war veterans and their families to weather the depression of the 1930's—easier for thousands to borrow money for the crises of life—easier for families of modest means to own a home—easier for many small businesses to stay alive in the predatory economic jungle—easier for millions to find jobs.

Be ours the continuing legacy to think of him when the cynic scoffs that one man cannot make a difference.

And who can know the countless thousands of unsung dramas, privy only to him and his humble petitioners, enacted here in the piney woods and red clay hills and little towns of northeast Texas, for people who for half a century have come to Wright Patman as their intercessor and have not been turned away empty.

He was not always successful. He did not always win the day. The foes that he chose were formidable. The nation's largest banks and the most pervasively powerful unelected entity of government, the Federal Reserve, combined against his plans. Too few would join him in his persistent and frequently frustrated endeavors to bring down interest rates. But none ever doubted his sincerity.

And he never let failure breed bitterness. With courtly good manners, Wright Patman assumed pure motives on the part of those who disagreed with him. His spirit was too sweet for rancor. Bombarded by sometimes vicious criticism, he always had the dignity to answer in a soft voice, and usually with a smile. In the divisive and polarizing stridency of our times, there is a quiet treasure to hold to.

Do the values by which Wright Patman lived have relevancy for our day?

It may seem quaint—when our very language has been so jaded by excess that it has lost its capacity to shock—that a man would keep for 60 years a promise made to his mother, never to utter the name of the Lord in vain. Yes, quaint, perhaps.

And yet how empty are our lives—poor clever, sophisticated creatures that we are—if we have no comparable commitments by which we live.

And so, Pauline and Bill, Connor, Harold and the grandchildren who will miss the twinkling eyes and cherubic smile and never failing good humor, may it be some comfort that there are many who will share your sense of loss—and many too for whom Wright's memory will be a lasting inspiration.

This, then, is a time not only for sorrow but also for thankfulness. We celebrate a life triumphantly lived.

So, Wright, old friend, your race is run; your battle done; your victory won. And from the eternal skies we know you hear the words, "Well done."

DR. WILLIAM E. SHIELDS

(Singing: "Battle Hymn of the Republic.")

Mine eyes have seen the glory of the coming of the Lord,
He is trampling out a vintage where the grapes of wrath are stored,
He hath loosed the fateful lightning of His terrible swift sword,
His truth is marching on.
Glory, glory, hallelujah, Glory, glory, hallelujah,
Glory, glory, hallelujah, His truth is marching on.
I have seen Him in the watchfires of a hundred circling camps,
They have builded Him an altar in the evening dews and damps.
I can read His righteous sentence in the dim and flaring lamps,
His day is marching on.

(Chorus)

In the beauty of the lillies, Christ was born across the sea,
Where the glory in His bosom that transfigures you and me,
As He died to make men holy, let us die to make men free,
While God is marching on

(Chorus)

Amen, amen.

DR. LORY HILDRETH

I direct your attention to an ancient setting, where another tremendous leader of the people of the nation had died. This is recorded for us in the 6th chapter of the ancient prophesy of Isaiah. In the year of King Uzziah's death, I saw the Lord, sitting on a throne lofty and exalted with a train of his robe filling the temple. The seraphims stood above him each having six wings with two He covered His face, with two He covered His feet and with two He flew. And one called out to another and said, "Holy, holy, holy, is the Lord of Hosts. The whole Earth is full of His glory." And the foundations of the thresholds trembled at the voice of Him who called out, while the temple was filled with smoke, then I said, "Woe is me for I am ruined because I am a man of unclean lips and I live among a people of unclean lips for mine eyes have seen the King, the Lord of Hosts." Then one of the seraphins flew to me with a burning coal in his hands which he had taken off of the altar with palms. And he touched my mouth with it and said, "Behold this has touched your lips, your inequity is taken away and your sin is forgiven." Then I heard the voice of the Lord saying, "Whom shall I send and who will go for us?" Then I said, "Here am I, Lord, send me."

You and I are met here today to pay our tribute of respect and affection for one who has walked among us with dignity and integrity, for these many years. Well-deserved and eloquent tribute has already been paid to his public life, but I wish to recognize his faith and its meaning for his life as well as for ours. Blessed by the fortune of good ancestry, Mr. Patman gave to his inheritance, the benefits of his own tremendous mind and spirit. It were as if he had made a gentlemen's agreement with life, because he worked diligently to give back to it more than he had received from it. Not only what he did, but how he did it will always linger in our memories. With a rare combination of true maturity and clear purpose, he always moved toward well-defined objectives, yet there was always with him an understanding of others, and an appreciation for their differences that represented for him a true capacity for the acceptance of others. What does his life as well as his death say to you and to me? To find an answer to that question, I direct your attention to this ancient setting for a moment. The time is described in these words: "In the year that the King Uzziah died."

That statement is more than a date of description. It's more than a detail of chronology. It is a designation of spiritual circumstance. Lord Byron, the rebel against convention, said, "It's a fearful thing to see the human soul take wings in any shape in any mood." Yes, death is always impressive; it becomes terribly impressive, however, when its victim is a person of unusual prominence, a person widely known, a person greatly loved. Such a person was King Uzziah; but such a person was Mr. Wright Patman.

The prophet Isaiah, as he confronted death, this great man writes, in essence, "In the unforgettable year of the death of a great leader, I was in the icy grip of grief. My mind was confused, my faith was reeling, it was a time of crisis and confusion and change. But out of the darkness came light; I saw the Lord."

He saw God towering above all else. The true King to him. God reigns. He is in control. He is the living Lord of nature, but also the living Lord of history. In the year that Mr. Patman died, our need is also a fresh awareness that God reigns. For many God is nothing but a lovely myth, an oblong blur, a faded reality. But in Isaiah's experience, do you see what happened? The man stopped thinking of himself, and he started praising God. You see he has fastened on to something other than himself. How unlike our day, self-confidence, self-mastery is the religion of the present. But a religion of human will and a religion of human effort divorced from God keeps us from focusing our attention on God. A modern version of this famous passage from Isaiah could read like this: "In the year King Uzziah died, I was resolved that I would only think positive thoughts and so to come to believe in myself. Suddenly I saw myself sitting on a throne, high and lifted up and I knew my own strength and my own power and I said, 'I will stamp on my mind a mental image of myself as succeeding; and when I said who would help me, the Lord said, Here I am, use me.'"

The more you and I analyze ourselves, the more we think we're manufacturing our own little gods to do something for us. But you see, when we do that, we're starting backwards True religious faith puts God first, and ourselves second. God must not ever be a new gimmick by which we get a psychological tune-up. God must ever remain Creator, Lord, Judge. In the year that King Uzziah died, or in the year John F. Kennedy died, or in the year Mr. Wright Patman died, as Isaiah, you and I go into a temple of worship, or we hide our face in our little padded temples of our own hands and a voice will be heard to say: "Whom shall I send into the pain of the world, where people die?" Man's life has heard all sorts of voices calling to him in all sorts of directions. But the danger is that there are so many voices and they all in their way sound so promising. Everybody knows this; we need no one to tell it to us. Yet in another way, we always need to be told because there is always the temptation to believe that we have all the time in the world, whereas the truth is we do not. We have only a life, and the choice of how we're going to live it must be our own choice, not one that we will let the world make for us.

Every experience of God whether in life or in death, demands something of us. When God confronts a man, it is not to startle like a ghost, it's for a purpose. No man, whatever his capacities, can expect to have a sense of call if he's using these for evil purposes. It would be a mockery approaching blasphemy to say that a burglar or a dope peddler could have a sense of call. Given, however, a legitimate work, serving the welfare of others, there still remains for the man of Christian faith the question of how in his environment he can relate his skills or his knowledge to the service of God. It's only when he is consciously using his situation and its opportunities for the good of others, that he can know the peace of answering God's call.

Mr. Patman, facing the opportunity for honest labor in a great profession, was ready to hear a divine summons both in life and

(6) provide information on economic and social developments which effect minority enterprises;

(7) maintain and disseminate information on public and private plans, programs and activities which relate to minority enterprises;

(8) evaluate the efforts to assist of minority enterprises of agencies of the United States which have minority enterprise programs or which have established minority enterprise program goals and objectives;

(9) evaluate the efforts of business and industry to assist minority enterprises; and

(10) do such other things as may be appropriate to assisting the development and strengthening of minority enterprises.

MEMBERSHIP

SEC. 303. (a)(1) The Commission shall be composed of 15 members to be appointed by the President by and with the advice and consent of the Senate from members of minority groups and representatives of minority-dominated enterprises, trade associations, and community development corporations who are knowledgeable in the problems of minority participation in the economy. At the time of appointment, the President shall designate one of the members as Chairman of the Commission.

(2) The Associate Administrator for Minority Small Business and Procurement Assistance of the Small Business Administration and the Administrator of the Office of Minority Business Enterprise of the Department of Commerce shall be ex officio voting members of the Commission.

(3) Members of the Commission shall serve for a term of office of two years, and may be appointed for additional terms.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(b) The Commission shall meet not less than once during every two-month period and at other times at the call of the Chairman.

(c)(1) Except as provided in paragraph (2), members of the Commission shall be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

STAFF

SEC. 304. (a) The Commission shall have an Executive Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of basic pay in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332).

(b) Subject to such rules as may be adopted by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as he deems desirable.

(c) The Executive Director and any additional personnel appointed by the Executive Director may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter II of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual appointed by the Executive Director may receive pay in excess of the annual rate of basic pay in effect for grade GS–17 of the General Schedule.

EXPERTS AND CONSULTANTS

SEC. 305. Subject to such rules as may be adopted by the Commission, the Executive Director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code.

STAFF OF FEDERAL AGENCIES

SEC. 306. Upon request of the Commission, the head of any agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

SEC. 307. (a) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

DEFINITION OF MINORITY ENTERPRISE

SEC. 308. As used in this title, the term "minority enterprise" means a business that is owned or controlled by minority group members or by socially or economically disadvantaged individuals. For purposes of this definition—

(1) such disadvantage may arise from cultural, racial, chronic economic circumstance or background, or other similar circumstance or background, and

(2) a minority group member is a Negro, Puerto Rican, Spanish-speaking American, American-Oriental, American-Indian, American-Eskimo, or an American-Aleut.

REPORTS TO CONGRESS

SEC. 309. Within seven months after the effective date of this title, and at six-month intervals thereafter, the Commission shall submit to each House of Congress a report concerning its activities.

APPROPRIATIONS AUTHORIZED

SEC. 309. There is authorized to be appropriated to carry out this title $748,000 for the fiscal year ending September 30, 1977.

EFFECTIVE DATE

SEC. 310. This title shall take effect beginning on October 1, 1976.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, yesterday I was not present for the vote on House Resolution 1093, to make in order consideraiton of H.R. 10799. Had I been present, I would have voted "yea."

PROVIDING FOR PRINTING AS A HOUSE DOCUMENT OF REPORT OF SELECT COMMITTEE ON INTELLIGENCE

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, on Monday, March 22, 1976, I introduced House Resolution 1100, a resolution providing for the printing, as a House document, of a report of the Select Committee on Intelligence.

As clearly stated in my introductory speech, my motivation for introducing this resolution was three-fold:

First, the previously "secret" committee report was no longer secret, it had been printed—verbatim—in a New York newspaper.

Second, the previous concern for making certain sensitive foreign relations matters "official" by means of a formal House document was moot—those matters already had been made official through statements of the President or the Secretary of State.

Third, the only remaining parts of the report which have not been leaked, or otherwise released, are the "dissenting views", "minority views", and "additional views"—none of which contained either classified or sensitive information.

The introduction of this resolution has caused some unexpected events to occur and has precipitated speculation among press reporters and self-styled "political pundits" within the House.

Since the introduction of this resolution involved my own work, my own thoughts and my own actions, I feel that I can speak with authority concerning my own intentions.

First, let me briefly discuss the background leading up to this matter. The week of January 26, 1976, the Select Committee on Intelligence finished its work and finalized its report. From my own knowledge and from the public testimony of the chairman of the Select Committee on Intelligence—before the Rules Committee on January 28, 1976—the report undisputedly contained classified data and other information that many considered to be damaging to our foreign relations with certain nations.

I lead an effort in the Rules Committee and on the floor to cause the report to be printed as a classified document. The majority of the House concurred.

There were good reasons at that time to restrict public distribution of the committee report. It did contain certain technical details that would compromise on-going and important intelligence efforts. It did contain information that would seriously complicate foreign relations with certain foreign nations.

Second, as a result of the argument that I offered in the Rules Committee and on the floor, many members told me that they had voted to restrict the report because they believed what I had said to be valid: I was not only grateful for their faith and confidence, but I also felt that I must keep that faith by playing the game straight. The general membership of the Congress did not have an opportunity to read the report, much less have access to the many technical briefings that were necessary to understand the full implications and contents of the committee report.

If—indeed—I did persuade any Members to cast their vote to restrict the re-

port. this would also compel a responsibility, on my part, of being sure that their particular point of view was protected. As everyone knows, the vote was backed by a conglomerate of Republicans, Democrats, liberals, and conservatives. Party was not an issue and philosophy was not an issue. The majority of Members simply were seriously concerned about what the release of the report would be to the welfare of this Nation.

Third, surely everyone will recognize that the situation changed from those conditions present on January 29th—when the restricting resolution was passed.

Prior to January 29, there had been numerous leaks that had appeared in newspapers and on television. But the vital technical details had not been published. Furthermore, while there had been various press accounts of the sensitive foreign relations matters, there had been no official acknowledgment of these events.

In February, Mr. Daniel Schorr unilaterally decided that he was the best judge of this Nation's welfare and clandestinely caused to be published a verbatim copy of the committee report.

Mr. Schorr should not solely be credited with this feat. Bearing equal responsibility, some Member of Congress or some congressional staff member or some official in the administration must share the guilt. If one of the above had not illegally given Mr. Schorr a copy of the report, it would not have been published.

Mr. Speaker this brings me to the point in this speech. As stated in the beginning, my introduction of House Resolution 1100, to declassify the committee report, has caused some unexpected events to occur and has precipitated a massive amount of speculation about my intentions.

One speculation would have me introducing the resolution to: "Gut the Ethics Committee's efforts to find out who 'leaked' the report." This is ridiculous.

I strongly support the Ethics Committee's effort. I not only endorse their effort to receive the full funding request of $350,000, but will back them for $3,500,000, if that amount is necessary to find out the full details of the committee, staff, or administration leaks.

Another speculative argument contends that: "If the committee report is publicly released, it will make their effort moot because official House release of the report will nullify the question." Balderdash.

The unauthorized release of national security information is a violation of law and the House rules. Law violators and rule violators must be brought to justice. For one to say that "the public release of the report—that has already been publicly released—makes the situation moot" is like saying "we will not punish the murderer because the victim is dead."

In the same way that murder is against the law, unauthorized release of security information continues to also be a violation of law. Congressmen, staffers, or administrative agency officials are not beyond the law.

The fact remains, vital national security details have been handed over to adversary nations, to the detriment of this country. Those responsible, whether they be newsmen or Members of Congress, should be called for a full accounting. The Ethics Committee is the only vehicle, within the House of Representatives, to obtain this accounting. I support this effort to the maximum extent possible.

My introduction of House Resolution 1100 has spawned other unexpected and nonauthoritative speculation. I noted in a Washington newspaper one press account that suggested my resolution might be a "coordinated effort to diminish the controversy that has surrounded the report and its unauthorized publication."

The same newspaper account infers that I am among "a growing number of House Members (that) may want to tone down the affair—the Ethics Committee investigation—if not wash their hands of it altogether". The fact that the CONGRESSIONAL RECORD is a public document prevents me from appropriately responding to this speculation. I would have to use "cuss" words to put this one in perspective.

Mr. Speaker, I really do not know how to make my case any plainer than I have already expressed it. I did not want the Select Committee on Intelligence Report made public, simply because it contained information that was damaging to our national security and on-going intelligence and foreign relations efforts.

In spite of anything that I could do, that very information was made public and hence available to our adversaries by means of the combined efforts of irresponsible Government officials and one so-called journalist.

Pragmatically recognizing the fact that the information was readily available to everyone, except the American public I saw no reason not to let them in also—particularly since one vital part of the report has neither been "leaked" or published.

Mr. Speaker, many people contend that the makeup of the House Select Committee on Intelligence was not really representative, in philosophical makeup, of the House as a whole. Therefore, the committee report was not truly representative of the House views. This suspicion was given credence when the House itself voted down the committee's desire to publish its report as a public document. Had the committee truly represented the general House view, we would not be facing the decisions that are now before us.

For these reasons, I submit that the one final part of the House Select Committee on Intelligence Report, that has never been leaked or publicly released, should now be made public. I am referring to the dissenting views, the minority views, and the additional views.

Since the majority on the House Select Committee on Intelligence did not reflect the majority views in the House, the various views may be the only real reflection of majority House opinions. Therefore their significance may be of major importance.

As long as the committee report is legally restricted, these views cannot be released. Since there is now no valid reason to keep the committee report in a classified mode, there is no reason why the American public should not also have access to the differing views. These views provide a totally different insight to the entire committee investigation.

Mr. Speaker, let me sum it up in my best fashion as we would do it in the east Texas village of Bug Tussle. The "secret" report is no longer secret. Those responsible for the situation should be called on the carpet for an accounting. Our Ethics Committee is our only vehicle for producing such an accounting. The Ethics Committee should spend whatever energy or money that is necessary to obtain such an accounting.

Whether it involves Members of Congress, congressional staff members, or administrative officials, let the chips fall where they may.

FOOD STAMP REFORM—AN ANSWER TO SYLVIA PORTER

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, in a column in the Washington Star on March 22, economic writer Sylvia Porter takes out after President Ford's recently announced reforms of the food stamp program.

Mincing no words, she says his action will "wreck the program," and accuses the President of having "literally taken the law into his own hands."

Her analysis of the particulars of the Ford proposals, and indeed of the food stamp program in general, betray a serious lack of knowledge and understanding of the program, and a thorough lack of objectivity in reporting the true situation.

Combined with her virulent language, these failings add up to an article that is a real disservice to those who have worked hard to bring some sense to the scandalous food stamp program.

The President has complete statutory authority to undertake the reforms he has announced, and, in fact, the House Appropriations Committee strongly urged him to do it, setting aside $100,000 for the task. For Ms. Porter, that amounts to "sidestepping Congress." To me, it seems like considerably more congressional-executive cooperation than we have been used to in recent years.

The regulations themselves are the product of interaction between Congress and the White House which has been going on for over a year, ever since the Dole resolution of February 1975, calling for a detailed reform study.

Ms. Porter further alleges that the President, by acting now, is going to precipitate "two major upheavals" in the program, the second coming when Congress passes a reform bill. But will such a bill necessarily be very different from the new regulations? And if it is, would it not be vetoed? If it is, and the veto is sustained—as it probably would, given the strong support for the kind of reform the regulations represents—then the regulations stand, and there is no second upheaval at all.

Moreover, what if the congressional

CONFEREES BACK SCIENCE ADVISER

Agree on a Bill to Establish Post in White House

By HAROLD M. SCHNECK
Special to The New York Times

WASHINGTON, April 13 — Senate and House conferees have agreed on a bill to give the President a science adviser in the White House, a goal of leaders in American science since 1973.

Final Congressional action on th bill is expected soon after the Easter recess. Senator Edward M. Kennedy, Democrat of Massachusetts, who is a principal sponsor of the Senate bill, said today that the White House had given assurances that the version worked out in conference would be accepted.

The chief sponsors of th House version of the bill were Representatives Olin E. Teague Democrat of Texas, and Charle A. Mosher, Republican of Ohio

The measure agreed to i conference establishes an Of fice of Science and Technology Policy in the White House with a director, who will be th President's science adi adviser and as many as four associate directors.

A comparable office was abo lished by President Nixon in early 1973. Since then spokesmen for the scientific community have often expressed con cern over the lack of such an office to give direct advice to the President on major issues involving science and technology.

For Full-Time Post

Dr. Guyford Stever, director of the National Science Foundation, has served as science adviser to the White House since early 1973. Critics of this arrangement have argued, however, that the President needs an adviser who is physically in the White House and who does not also have responsibility for managing a major Government agency.

The conference measure makes the science adviser a member of the Domestic Council and a statutory adviser to the National Security Council, thus giving him a role in defense science policy that has been lacking since 1973.

The adviser will be required to make an annual report on science and technology to the President and to prepare annually a five-year forecast of science capabilities and their possible impact on national problems. He will also pay a larger role than in the past in advising the Office of Management and Budget on Science and technology financing.

The conference bill also establishes a President's Committee on Science and Technology that will do a two-year survey of Federal programs in these fields. The President will have the option of continuing the committee after the survey or letting it fo out of existence.

In November, President Ford appointed two advisory groups on scientific and technological matters to serve until the White House advisory apparatus was re-established. The panels are headed by Dr. Simon Ramo, vice chairman of the Board and one of the founders of TRW Inc., and Dr. William O. Baker, president of Bell Telephone Laboratories.

Either one of these scientists is considered likely to be President Ford's choice to be head of the new White House office.

H.R. 9043

tion of facilities for the naval Trident submarine and $112.3 million to improve security in order to protect against terrorist or other unauthorized acquisition of nuclear weapons at installations which store, maintain, and issue weapons of this nature. This particular authorization earmarks $65.1 million for such facilities outside the United States and $47.2 million for intercontinental sites.

While the administration generally supports the passage of H.R. 12384, concern has been raised regarding the committee's reduction of the Presidential request. In addition, the committee has sanctioned the expenditure of $93.5 million for items outside the administration request.

Mr. Speaker, although there may be some controversy surrounding H.R. 12384, I propose we adopt the rule and allow the House to work its will in regard to this bill.

I have no requests for time and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 385, nays 0, not voting 47, as follows:

[Roll No. 242]

YEAS—385

Abdnor	Brooks	Daniels, N.J.
Abzug	Broomfield	Danielson
Adams	Brown, Calif.	Davis
Addabbo	Brown, Mich.	de la Garza
Alexander	Broyhill	Delaney
Allen	Burgener	Dellums
Ambro	Burke, Calif.	Dent.
Anderson, Calif.	Burke, Fla.	Derrick
	Burke, Mass.	Derwinski
Anderson, Ill.	Burleson, Tex.	Devine
Andrews, N.C.	Burlison, Mo.	Dickinson
Andrews, N. Dak.	Burton, John	Dingell
	Burton, Phillip	Dodd
Annunzio	Butler	Downey, N.Y.
Archer	Byron	Downing, Va.
Armstrong	Carney	Drinan
Ashbrook	Carr	Duncan, Oreg.
Badillo	Carter	Duncan, Tenn.
Bafalis	Cederberg	du Pont
Baldus	Chappell	Early
Baucus	Chisholm	Eckhardt
Bauman	Clausen, Don H.	Edgar
Beard, R.I.		Edwards, Ala.
Beard, Tenn.	Clawson, Del	Edwards, Calif.
Bedell	Clay	Ellberg
Bennett	Cleveland	Emery
Bergland	Cochran	English
Bevill	Cohen	Erlenborn
Biaggi	Collins, Ill.	Esch
Biester	Collins, Tex.	Evans, Colo.
Bingham	Conable	Evans, Ind.
Blanchard	Conlan	Fary
Blouin	Conte	Fascell
Boland	Conyers	Fenwick
Bolling	Corman	Findley
Bonker	Cornell	Fish
Bowen	Cotter	Fisher
Brademas	Coughlin	Fithian
Breaux	Crane	Flood
Breckinridge	D'Amours	Florio
Brinkley	Daniel, Dan	Flynt
Brodhead	Daniel, R. W.	Foley
Ford, Tenn.	Lujan	Rogers
Forsythe	Lundine	Roncalio
Fountain	McClory	Rooney
Fraser	McCollister	Rose
Frenzel	McCormack	Rosenthal
Frey	McDade	Roush
Fuqua	McEwen	Rousselot
Gaydos	McFall	Roybal
Gibbons	McHugh	Runnels
Gilman	McKay	Ruppe
Ginn	McKinney	Russo
Goldwater	Madigan	Ryan
Gonzalez	Maguire	St Germain
Goodling	Mahon	Santini
Gradison	Mann	Sarasin
Grassley	Martin	Satterfield
Green	Matsunaga	Scheuer
Gude	Mazzoli	Schneebeli
Guyer	Meeds	Schroeder
Hagedorn	Melcher	Schulze
Haley	Metcalfe	Sebelius
Hall	Meyner	Selberling
Hamilton	Mezvinsky	Sharp
Hammer-schmidt	Michel	Shipley
	Mikva	Shriver
Hanley	Milford	Shuster
Hannaford	Miller, Calif.	Sikes
Hansen	Miller, Ohio	Simon
Harkin	Mills	Sisk
Harrington	Mineta	Slack
Harris	Minish	Smith, Iowa
Harsha	Mink	Smith, Nebr.
Hawkins	Mitchell, Md.	Snyder
Hays, Ohio	Moakley	Solarz
Heckler, Mass.	Moffett	Spellman
Hefner	Mollohan	Spence
Heinz	Montgomery	Staggers
Helstoski	Moore	Stanton, J. William
Henderson	Moorhead, Calif.	Stark
Hicks	Moorhead, Pa.	Steed
Hightower	Morgan	Steelman
Hillis	Mosher	Steiger, Wis.
Holland	Moss	Stokes
Holt	Mottl	Stratton
Holtzman	Murphy, Ill.	Studds
Horton	Murphy, N.Y.	Sullivan
Howard	Murtha	Symms
Howe	Myers, Ind.	Talcott
Hubbard	Myers, Pa.	Taylor, Mo.
Hughes	Natcher	Taylor, N.C.
Hungate	Neal	Teague
Hutchinson	Nichols	Thompson
Hyde	Nolan	Thone
Ichord	Nowak	Thornton
Jacobs	Oberstar	Traxler
Jarman	Obey	Treen
Jeffords	O'Brien	Tsongas
Jenrette	O'Hara	Van Deerlin
Johnson, Calif.	O'Neill	Vander Jagt
Johnson, Pa.	Ottinger	Vander Veen
Jones, Ala.	Passman	Vanik
Jones, N.C.	Patten, N.J.	Vigorito
Jones, Okla.	Patterson, Calif.	Waggonner
Jones, Tenn.		Walsh
Jordan	Pattison, N.Y.	Wampler
Kasten	Paul	Waxman
Kastenmeier	Perkins	Whalen
Kazen	Pettis	White
Kelly	Pickle	Whitehurst
Kemp	Pike	Whitten
Ketchum	Poage	Wiggins
Keys	Pressler	Wilson, Bob
Kindness	Preyer	Wilson, Tex.
Koch	Price	Winn
Krebs	Pritchard	Wirth
Krueger	Quillen	Wolff
LaFalce	Railsback	Wright
Lagomarsino	Randall	Wydler
Latta	Rangel	Wylie
Leggett	Rees	Yates
Lehman	Regula	Yatron
Lent	Reuss	Young, Alaska
Levitas	Richmond	Young, Fla.
Litton	Rinaldo	Young, Ga.
Lloyd, Calif.	Roberts	Young, Tex.
Lloyd, Tenn.	Robinson	Zablocki
Long, La.	Rodino	Zeferetti
Long, Md.	Roe	
Lott		

NAYS—0

NOT VOTING—47

Ashley	Flowers	McDonald
Aspin	Ford, Mich.	Macdonald
AuCoin	Giaimo	Madden
Bell	Hayes, Ind.	Mathis
Boggs	Hébert	Mitchell, N.Y.
Brown, Ohio	Hechler, W. Va.	Nedzi
Buchanan	Hinshaw	Nix
Clancy	Johnson, Colo.	Pepper
Diggs	Karth	Peyser
Eshleman	Landrum	Quie
Evins, Tenn.	McCloskey	Rhodes
Riegle	Stanton, James V.	Symington
Risenhoover	Steiger, Ariz.	Udall
Rostenkowski	Stephens	Ullman
Sarbanes	Stuckey	Weaver
Skubitz		Wilson, C. H.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Symington.
Mr. Rostenkowski with Mr. Weaver.
Mr. Risenhoover with Mr. Ford of Michigan.
Mr. Nix with Mr. Diggs.
Mr. Pepper with Mr. Hechler of West Virginia.
Mr. Giaimo with Mr. Evins of Tennessee.
Mr. Hébert with Mr. Landrum.
Mr. AuCoin with Mr. Bell.
Mr. Ashley with Mr. Flowers.
Mr. Karth with Mr. Eshleman.
Mr. Macdonald of Massachusetts with Mr. Buchanan.
Mr. Nedzi with Mr. Mathis.
Mr. Sarbanes with Mr. Hayes of Indiana.
Mr. Riegle with Mr. Mitchell of New York.
Mr. James V. Stanton with Mr. McCloskey.
Mr. Stuckey with Mr. Peyser.
Mr. Charles H. Wilson of California with Mr. Quie.
Mr. Udall with Mr. McDonald of Georgia.
Mr. Ullman with Mr. Rhodes.
Mr. Stephens with Mr. Steiger of Arizona.

Mr. ST GERMAIN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, MAY 7, 1976, TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 109

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday, May 7, 1976, to file a conference report on Senate Concurrent Resolution 109, first concurrent resolution on the budget for fiscal year 1977, and for the transition period.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

EXPERIMENTS TO TEST FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR FEDERAL EMPLOYEES

Mr. HENDERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9043) to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules as alternatives to present work schedules.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9043), with Mr. STRATTON in the chair.

The Clerk read the title of the bill.

ment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said amendment shall be read by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), and pending that I yield myself such time as I may consume.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, the reading of the resolution makes it very clear that this rule provides for 1 hour of general debate. It is an open rule, meaning that any and all germane amendments would be in order. It would make in order the consideration of H.R. 9043 recommended by the Committee on Post Office and Civil Service on a matter concerning flexible time and compressed work schedules as alternatives to present work schedules.

Mr. Speaker, without getting into the merits of H.R. 9043, I would hope that the House will accept this rule providing for 1 hour of general debate and permit the Committee on Post Office and Civil Service to explain the provisions of this particular legislation.

Therefore, Mr. Speaker, I urge the adoption of the resolution, and I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DEL CLAWSON asked and was given permission to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, the gentleman from California has explained that House Resolution 1166 is a 1-hour open rule providing for the consideration of H.R. 9043, a bill allowing experiments to test flexible and compressed work schedules for Federal employees. Under the rule it will be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for purposes of amendment. This amendment may be read by titles instead of by sections.

Very briefly, the purposes of H.R. 9043 are as follows:

First. To require each agency of the executive branch, unless exempted by the Civil Service Commission, to establish a flexible work schedule experiment for employees to be conducted during the 3-year period following enactment of the act.

Second. To suspend the applicability of certain existing laws relating to hours of work, overtime pay, compensatory time off, premium pay for night work and work on holidays to employees under experimental programs where application of such laws would be inconsistent with the experimental programs.

Third. To provide alternative means for determining entitlement to such rights which are consistent with experimental programs.

Fourth. To provide that where employees are in a unit for which an employee organization holds exclusive recognition, the introduction of any flexible work schedule experiment will be subject to collective bargaining.

No costs are reported to be associated with the passage of this legislation.

While I support the rule as requested, I have great reservations concerning the mandatory effect of the bill itself. When the measure was considered originally by the Post Office and Civil Service Committee, it was designed to permit voluntary participation by the agencies in the flexible and compressed work schedule experiments. Now, that voluntary participation has been transformed into a compulsory, Government-wide exercise which demands that each agency institute its own experimental program. I doubt very much that a Congress undergoing serious consideration of terminating the functions of several Federal agencies would want to initiate a new mandatory plan to include them for at least another 3 years.

Since it is my understanding that amendments will be offered to restore the voluntary participation provisions in this legislation, I would urge the adoption of this open rule so that we may consider these amendments to the bill.

Mr. Speaker, I have no requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12384, MILITARY CONSTRUCTION AUTHORIZATION FOR FISCAL YEAR 1977

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1167 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1167

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, House Resolution 1167 provides for consideration of H.R. 12384, the military construction authorization for fiscal year 1977.

The resolution allows 2 hours of general debate which is to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Armed Services. This is an open rule with the bill to be read by titles rather than sections for amendment.

H.R. 12384 provides a total authorization of $3,328,735,000 for military construction and family housing for fiscal year 1977. This amount is $39,480,000 below the request of the Department of Defense. The committee reduced the requests for the Army, Navy, and Defense agencies categories, but increased the amounts allocated for the Air Force and the Guard/Reserve forces. The amount for military family housing was granted as requested.

Major items in the bill include $437 million for the Air Force's aeropropulsion system test facility, $288.3 million for construction of facilities for the Navy's Trident submarine, and $112.3 million to improve security facilities for nuclear weapons both in the United States and abroad.

Mr. Speaker, this is an open rule and any amendment germane to the subject matter of the bill is, of course, in order. Therefore, I would urge my colleagues to adopt House Resolution 1167 so that we might consider H.R. 12384.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DEL CLAWSON asked and was given permission to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, House Resolution 1167 provides for 2 hours of equally divided debate on H.R. 12384, to authorize certain construction at military installations and for other purposes. It further stipulates that the bill be read for amendment by titles instead of by sections. There are no waivers of points of order.

Specifically, H.R. 12384, as approved by the Committee on Armed Services by a vote of 35 to 1, provides construction authorization in support of the Active Forces, Reserve Forces, Defense agencies, and military housing.

The cost which will be accrued by virtue of this construction authorization totals $3,328,735,000. This amount reflects a reduction of $39.5 million below the amounts requested.

Major authorizations incorporated within the measure include $437 million for the Air Force's aeropropulsion system test facility, $128.3 million for construc-

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. HENDERSON) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the most important statement that I could make to the Members as we begin consideration of H.R. 9043, which provides for a 3-year experimental study of flexible and compressed work schedules in the executive agencies of the Government, is that this proposal might, upon first glance, appear to be very complicated. The Members could ask questions which would require several hours to answer, but if the Members will look at the committee report and listen to the debate I think they will discover that all of us who first looked at this idea were rather amazed to find that it was a good idea, and we unanimously came to the conclusion that the intent of the legislation is worthy of our consideration.

There is one amendment that we know of, which will not go to the intent or thrust of the legislation, but is a very important amendment to be considered by the Committee of the Whole. I feel confident that with the understanding of the legislation, that the bill, whether amended or not in the one instance, will finally pass.

Mr. Chairman, H.R. 9043 provides for a 3-year experimental study of flexible and compressed work schedules in executive agencies of the Government.

The concept of alternatives to traditional work schedules and normal work day patterns is relatively new but certainly not untested. There is an increasing number of organizations in Germany and other countries in Western Europe, in Canada and England and, to a lesser extent in the private sector in the United States, which have introduced flexible methods of scheduling work. To a very limited degree and within the constraints of current hours of work and overtime laws, some Federal Government organizations have instituted limited flexible work hours programs.

The reasons for this upsurge in altering normal work day patterns and fixed-hour schedules have been varied but for the most part they have been economic. Economic in the sense of reducing essential costs to the employer with no reduction of economic benefit to employees. For example, organizations with flexible work schedules have found that short-time usage of sick leave by employees is greatly decreased, overall productivity is increased, there is to some degree greater efficiency of operations, and for many Government organizations there is increased service to the public with no increased cost.

On a broader basis, flexible work schedules have a favorable impact on use of mass transit facilities, commuter patterns and energy consumption. Flexible hours also provide greater employment opportunities for those unable to work fixed-hour schedules in the normal work day patterns such as students, women with child-care responsibilities and others who are unable to work standard hours.

Because of reported benefits, the need to consider alternative work schedules and variations of normal work day patterns is evident. It is just as evident that alternative work schedules, whether they be flexible work schedules commonly called flexitime or compressed work schedules, be clearly defined.

The concept of a flexible work schedule is a simple one. Basically it means that fixed time of arrival and departure are replaced by a working day which is composed of two different types of time: core time and flexible time. Core time is the designated number of hours in a day during which all employees must be present. Flexible time is all the time designated as part of the schedule of work hours within which employees may choose their time of arrival and departure within limits consistent with the duties and requirements of their positions. Such flexible time does not relieve the employee from fulfilling a basic work requirement which generally would be 80 hours of work during a 2-week period. It does mean, however, that in fulfilling that basic work requirement the employee will have a limited degree of choice of when to complete that work requirement.

Within the limits of the flexible time allowed, which might be the first hour or 2 at the start of the day and the last hour at the end of the day, the employee would have the choice of working more than 8 hours in 1 day in order to vary the length of that workweek or subsequent workdays.

Two critical points should be emphasized regarding the flexible time. First, the employee's choice with respect to the arrival or departure from work is subject to limitations to insure that the duties and requirements of the position are fulfilled and there is an overall limit of a maximum of 10 hours which may be accumulated in order to vary the workday or workweek. Second, H.R. 9043 does not change the requirement to pay overtime for all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance. In other words, if an employee is required to work more than 8 hours a day or 40 hours a week, current overtime laws apply.

The essential point of this legislation is that due to the permissive nature of a flexible work schedule which allows an employee to voluntarily extend his work hours within the flexible schedule for the purpose of accumulating credit hours, an accomodation with existing statutory provisions relating to overtime compensation is necessary.

Compressed work schedules addressed in title II of the bill relate to experiments where the 80-hour biweekly basic work requirement is scheduled for less than 10 work days. While the 10-hour day, 4-day week has been highlighted for some time, there are other variations to a compressed schedule such as an approximate 9-hour day, 5 days one week and 4 days a second week. The compressed work schedule has the practical effect of extending the length of each work day to some level beyond eight hours, while reducing the total number of days or portions of days during which work is performed by an individual employee.

Enactment of this legislation will not immediately mandate flexible work scheduling programs for the 2.9 million employees currently working for the Federal Government. The whole concept of the bill is to authorize for a 3-year period, a program of controlled experimentation under the guidance and assistance of the Civil Service Commission, to evaluate and assess the potential of alternative work schedules for the Federal Government. It is recognized that alternative work schedules will not always be suitable under all circumstances. In every case, the introduction of any of these schedules must be a carefully considered judgment.

Mr. DERWINSKI. Mr. Chairman, I yield myself 5 minutes.

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Chairman, acting on the misguided theory of "the bigger, the better," the committee has taken the administration's requested experimental proposal and transformed it into a mandatory, cumbersome, and unworkable project.

The Civil Service Commission originally sought authorization for a set of controlled experiments with the use of flexible and altered work schedules in a few agencies in order to determine if other than 5-day, 8-hours per day workweeks might be applied to the Federal service.

At the appropriate time, I will offer an amendment to restore this proposal to its original intent.

Such legislation will permit the Commission to set up a program for a selected sample of agencies to test the impact of alternative work schedules on Government operations. Under the test-model approach originally envisioned, alternative work schedules would not be imposed on any agency, but would be voluntary in a limited number of agencies.

The committee's reported bill, however, has transformed this idea of voluntary, controlled experiments into a compulsory, Government-wide exercise that will require some 240 agencies to establish programs of flexible and compressed work schedules.

The reported bill requires all Federal agencies to institute their own flexible work schedules, unless they are granted an exemption by the Commission. This sort of mandatory requirement is totally contrary to efficient management policies, because it will force agencies to seek exemptions rather than simply allow the Commission to select willing agencies for the experiments.

The mandatory requirement is also directly contrary to the whole philosophy of flexible work schedules in the first place. They should be an optional, alter-

native means of allowing an agency to accomplish its work, not an arbitrary replacement of traditional work patterns.

There is no disagreement that the Federal Government should begin some type of experiments to test the flexible hours concept. Recent studies by the General Accounting Office conclude that altered work schedules can be applied to selected agencies and result in benefits to the Government, its employees, and the public.

In its report, GAO recommended that as a means of determining the applicability of altered work schedules to the Federal service, the Commission should seek legislation to permit testing of flexible and compressed work schedules; that the Commission should help implement and closely monitor such tests to obtain data on the results; that the Commission should maintain data to identify those work schedules which contribute most to efficient agency operations. At the conclusion of the test period, the Commission should determine whether altered work schedules have a wider or more general application and then seek the necessary additional legislative action.

The committee's reported bill does not come close to the GAO recommendations. It compels all agencies to impose this wide application of altered work schedules before we actually have experiments from which to learn.

There are two questions to consider: One, should we require all agencies to participate in experiments immediately; and two, will the experiments the agencies conduct on their own give us the kind of information we will need to make a proper decision?

The value of alternative work schedules to the Government can only be determined through a system of voluntary, controlled experimentation. Following basic criteria set up by the Commission, experiments that are centrally planned and coordinated will give us the results necessary to decide in the future whether to adopt a Government-wide program.

Under the committee's reported bill, the Commission's role is left unclear and is subject to conflicting interpretation. Although the committee report states its intent for the Civil Service Commission to take the lead role in coordinating the programs of the various agencies to determine the desirability of maintaining such programs, the bill does not clearly address the Commission's role in these terms.

The reported bill does require that the mandatory experiments agencies will conduct be designed to provide an adequate basis for determining how desirable a permanent program would be in an individual agency, however, there is no requirement that the Commission evaluate the effectiveness or desirability of a permanent program on either an agencywide basis or a governmentwide basis.

It is possible that under its regulatory authority, the Commission may take an active role to assure that these agencies conduct adequate experiments, but it appears that even with the committee's report language the Commission is only given half the job, and that can only result in a mish-mash of costly experiments by a host of agencies.

The Government cannot afford to underwrite the heavy administrative burden that will result from requirements of this legislation.

If we were to enact the proposal as reported by the committee we would be forcing the Government to engage in a program no one really wants, a program that is probably doomed to failure from the start. It cannot be expected to produce results which would allow an intelligent determination of whether flexible work schedules will be beneficial to the Government, its employees, or the public.

My amendments, on the other hand, will allow a 3-year experimental period in which agencies may voluntarily experiment with alternative work schedules; have the data from those experiments carefully evaluated by the Civil Service Commission to see if sufficient reason exists to institute some type of program on a Government-wide basis; and then have the Commission come back to us for authorization.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to that very distinguished, capable, and scholarly Member, the gentleman from California.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

Mr. Chairman, I rise in support of the position of the gentleman from Illinois (Mr. DERWINSKI) and the amendments he will offer.

Mr. Chairman, H.R. 9043, as introduced by Mr. HENDERSON on July 30, 1975, at the request of the Civil Service Commission, proposed legislation to authorize a carefully designed experiment with the use of flexitime and altered work schedules in a selected group of agencies.

It would have permitted the Commission to establish a master program under which a carefully selected sample of agencies would serve as demonstration projects to test the impact of alternate work schedules on Government operations.

Under the test-model approach, alternative work schedules would not be imposed on every agency but would be voluntary on the agency's part, and the number of agencies participating necessarily would be limited.

This was a well-planned program which would enable the Commission to carefully monitor the activities of the participating agencies.

Only through the development of careful experimental designs and the cooperation of those agencies with expertise in each of the potentially impacted areas can the potential of these programs for the Federal Government be assessed.

A major responsibility of the Commission during the experimental phase will be to assist agencies in designing and installing and terminating, if necessary, the experimental program authorized.

Upon completion of the experiment, the Commission would then evaluate their findings and prepare a report on the results with appropriate recommendations.

However, the committee amendment to this bill, which was ordered reported by a voice vote of the Committee on Post Office and Civil Service on February 19, 1976, and which is now before us, struck out all of the enacting clause and inserted an entirely new text, which has transformed this idea of voluntary, controlled experiments into a mandatory Government-wide exercise that will require some 240 agencies to establish programs of flexible and compressed work schedules, unless they are granted an exception by the Commission.

To change what was originally intended as a voluntary, controlled exercise into a mandatory program would be counter productive, costly and chaotic, and could not be expected to produce results which would allow an intelligent determination of whether flexible work schedules will be beneficial to the Government, its employees, or the public.

Mr. Chairman, an amendment will be offered to restore this bill to its original intent, and I trust that this amendment will receive the overwhelming approval of my colleagues.

Mr. ASHBROOK. Mr. Chairman will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, after listening to the explanation given by the gentleman, I wondered if there might be any possible way under this proposed legislation that the time could be juggled so that certain employees could get overtime in a 40-hour week. Could some employees, for instance, bunch their time and work 10 hours one day and still only work 40 hours and yet get overtime for that week?

That is one thing that struck me as I listened to the explanation that was given.

Mr. DERWINSKI. Mr. Chairman, that is a possibility, and that would be corrected by one of my amendments. In other words, without my amendment which will be offered for that purpose, or if my amendment is not accepted, then we would have a situation where someone else would be working 40 hours and would receive no overtime. That would create more of a discrepancy, and it would be an unfair situation that might develop.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman. In that event, I certainly support his amendment.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Mississippi.

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Chairman, H.R. 9043, as introduced by Mr. HENDERSON on July 30, 1975, at the request of the Civil Service Commission, proposed legislation to authorize a carefully designed experiment with the use of flexitime and altered work schedules in a selected group of agencies.

It would have permitted the Commis-

sion to establish a master program under which a carefully selected sample of agencies would serve as demonstration projects to test the impact of alternate work schedules on Government operations.

Under the test-model approach, alternative work schedules would not be imposed on every agency but would be voluntary on the agency's part, and the number of agencies participating necessarily would be limited.

This was a well-planned program which would enable the Commission to carefully monitor the activities of the participating agencies.

Only through the development of careful experimental designs and the cooperation of those agencies with expertise in each of the potentially impacted areas can the potential of these programs for the Federal Government be assessed.

A major responsibility of the Commission during the experimental phase will be to assist agencies in designing and installing and terminating, if necessary, the experimental programs authorized.

Upon completion of the experiment, the Commission would then evaluate their findings and prepare a report on the results with appropriate recommendations.

However, the committee amendment to this bill, which was ordered reported by a voice vote of the Committee on Post Office and Civil Service on February 19, 1976, and which is now before us, struck out all of the enacting clause and inserted an entirely new text, which has transformed this idea of voluntary, controlled experiments into a mandatory Government-wide exercise that will require some 240 agencies to establish programs of flexible and compressed work schedules, unless they are granted an exception by the Commission.

To change what was originally intended as a voluntary, controlled exercise into a mandatory program would be counter productive, costly and chaotic, and could not be expected to produce results which would allow an intelligent determination of whether flexible work schedules will be beneficial to the Government, its employees, or the public.

Mr. Chairman, an amendment will be offered to restore this bill to its original intent, and I trust that this amendment will receive the overwhelming approval of my colleagues.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, this legislation, as originally introduced at the request of the administration, sought to ermit controlled experiments with flex- e and compressed work schedules in leral agencies.

he administration's proposal provided a 3-year test period in order to deter- e if alternatives to the regular, 8 rs per day, 5 days a week, work sched- would be beneficial to the Federal ernment, its employees, and the pub-

Since it is unknown what impact such alternative work schedules would have on service to the public, mass transit facilities, energy usage, and employee morale, this was a reasonable approach.

The committee, however, departed substantially from this original idea and has transformed the bill into a mandatory, cumbersome, and impractical project.

If we were to enact the proposal as reported by the committee, we would be forcing the Federal Government to engage in a broad, extensive program which will not produce the results necessary to intelligently analyze and determine if flexible work schedules will be beneficial to Government employees and agencies.

The amendments that will be offered en bloc to this legislation will restore this measure to its original purpose, giving the Civil Service Commission only limited authority to conduct voluntary, controlled experiments.

Mr. HENDERSON. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SOLARZ).

(Mr. SOLARZ asked and was given permission to revise and extend his remarks.)

Mr. SOLARZ. Mr. Chairman, I have great respect for the Republican members of the Committee on Post Office and Civil Service who have already spoken with respect to this legislation. However, I must say that I am absolutely amazed at the position which they have taken this afternoon.

I am a new member of this committee, but I have been struck by the fact that over the course of the last year and a half, every time our committee has held a hearing or every time our committee has had a markup session, these Republican members under the leadership of my very good friend, the gentleman from Illinois (Mr. DERWINSKI), are the most active champions of the cause of economy in Government of all of the members of our committee. They yield to no one in their determination to increase the productivity of the civil service. They yield to no one in their determination to save the maximum amount of money possible in the administration of Federal programs.

Mr. Chairman, the reason I am so amazed by the position they have taken this afternoon is that on the basis of the experience with flexitime programs, not only in most of the countries of Western Europe, but on the part of well over 100 private corporations and public agencies here in our own country, which was amply indicated in the hearing record compiled with respect to this legislation, it is abundantly clear that flexitime serves the cause of improving employee productivity; it reduces employee overtime; and it substantially enhances employee morale because, when workers have an opportunity to structure their own workweek and to determine their own hours within the framework of a 40-hour workweek obligation, it becomes quite clear that their desire and their need for overtime is diminished, their morale improves tremendously, and their productivity goes all the way up.

Therefore, Mr. Chairman, I see this program as a way of saving the taxpayers' money, increasing the efficiency of the civil service, and at the same time improving the morale of the 2.7 million civilian employees who work for the U.S. Government.

Of course, this bill provides only for an experimental program because we have to see, in reality, how it would work in the Federal civil service, what its actual impact would be on the lives of the men and women who work for the U.S. Government, and what its impact would be on traffic patterns, on congestion in major urban centers, and with respect to a wide variety of other considerations.

Mr. Chairman, the gentlemen on the other side of the aisle who have contended that we have turned what was essentially a voluntary experiment into a mandatory operation fundamentally misunderstand the provisions of this legislation because, as those members who read the bill and those members who also read the committee report can see, there is in very explicit language a provision which says that the head of any Federal agency who believes that the establishment of an experimental flexitime program in his or her agency would substantially impair the operations of that agency can apply for a waiver from the program from the Civil Service Commission. If the Civil Service Commission then finds that the establishment of a flextime program in any particular Federal agency would not be in the interest of the agency or of its employees or of the public at large, it can remove the obligation on the part of the agency to establish such a program.

So I would respectfully submit to my colleagues on the committee that if, in fact, the establishment of a flexitime experimental program will create serious problems for the functioning of a particular agency, or create serious problems for those who work for the agency, or in any way inconvenience the public which the agency serves, then that agency will be relieved of the obligation to establish such a program.

On the other hand, if the establishment of an experimental flexitime program will not substantially impair the operations of the agency, then there is every reason why such a program should be established, because the more agencies that participate in the experimental program, the better our ability will be to evaluate their effectiveness.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENDERSON. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I appreciate the generosity of the chairman, the gentleman from North Carolina (Mr. HENDERSON) in yielding me this time.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. Mr. Chairman, I will be happy to yield to the gentleman from Illinois in just one moment.

Mr. Chairman, I want to conclude by saying that the more agencies that participate in the program, the broader the base of the experiment, and the better our capacity to evaluate its effectiveness.

So I think, as the hearing record has

demonstrated, that there is every reason to believe the flexitime program experiment will be successful, and that it should, therefore, have the maximum participation of as many agencies as possible.

I believe that the amendments that are proposed by the gentleman from Illinois (Mr. DERWINSKI) will reduce the effectiveness of the experiment and will in fact compromise our capacity to come up with a comprehensive evaluation of its merits when the experimental period is over.

Now I will be happy to yield to my friend the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman from New York for yielding to me. I am of course shocked that the gentleman from New York will not be able to support my amendments.

In the openirg remarks of the gentleman from New York there was a reference I believe to the economy side of the argument. I was wondering if the gentleman from New York proposes to use this bill to become the champion of economy measures in government, and will he allow the Conservative Party in New York to confer their endorsement in his district?

Mr. SOLARZ. Mr. Chairman, I would say to the gentleman from Illinois that in light of the fact that I have unfortunately demonstrated to the distinguished gentleman from Illinois that I do not follow the conservative viewpoint on most of the mesaures we consider and which come before this House, that I fear that my unstinting efforts on behalf of economy in government with respect to this bill are unlikely to result in the endorsement of the Conservative Party and that, in any case, my chances of returning for a second term would obviously be diminished, if it did.

Mr. DERWINSKI. If the gentleman will yield still further, the gentleman from New York would certainly be welcome for a second, third, and fourth term as long as he was interested in continuing his present economy in government.

Mr. SOLARZ. Mr. Chairman, one final note and that is that there is evidence indicating that this will result in improved employee morale, by enabling those who work for the Federal Government to take care of their personal needs within the framework of a 40-hour week, which will help the public served by these agencies, by permitting the agencies to be open for longer periods of time during the day. They will begin earlier in the morning and will finish later in the evening, and those who work from 9 to 5 who cannot go to the various agencies during that period of time, would presumably then have an opportunity to go to them after 5 in the afternoon or before 9 in the morning.

In conclusion, Mr. Chairman, this is one of those rare bills where everybody benefits and nobody suffers. And I urge the Members of the Committee to support it.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to my distinguished friend, the gentleman from Michigan (Mr. TRAXLER).

(Mr. TRAXLER asked and was given permission to revise and extend his remarks.)

Mr. TRAXLER. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from New York.

Mr. Chairman, I would like to take this opportunity to speak in support of H.R. 9043, flexible work schedules for Federal employees. This legislation allows the Federal Government to establish flexible work schedules, a concept that private industry has been exploring for a number of years. I feel that the Federal Government has an obligation to take a position of leadership in determining the possible benefits that may result.

Private industry's experience with flexible work schedules has demonstrated an increase in workers' productivity and efficiency—which is certainly something the Federal Government could use. Furthermore, private industry has realized a decline in absenteeism and tardiness, and workers have perceived an improvement in working conditions.

The program as outlined in this legislation will allow the Federal Government to draw on talented and skilled personnel who are unable to work standard hours—such as mothers and students. Additionally, we would be taking another step forward in reducing air pollution and conserving energy by reducing the number of rush-hour traffic jams and therefore decreasing commuting time.

I think it is important that we remember that this program is one that is long overdue. We have nothing to loose in determining exactly what the benefits—or for that matter, liabilities—are in operating under flexible work schedules. But certainly, if "flexitime" is successful in increasing productivity while at the same time improving the morale of Federal workers, we have everything to gain. I urge my fellow colleagues to vote in favor of this legislation.

Mr. DERWINSKI. Mr. Chairman I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 9043, the Federal Employees Flexible and Compressed Work Schedules Act of 1975.

I have long been intrigued by the possibility of increased levels of efficiency and improved employee morale which flexible work schedules seemed to be yielding for our European friends and Canadian neighbors. It is certainly an idea that we ought to try.

Therefore, I was pleased when the administration's bill to provide for a 3-year coordinated experimental program was introduced last year. Its provisions for a master plan, with selected agency models being used for examination criteria and proper evaluation, seemed well designed for use in building a successful governmentwide program. Removing antiquated prohibitions on flexible work schedules was just the first of many good provisions in the bill.

However, the committee bill before us today has gutted the strengths and reinforced the weaknesses of the administration's proposal. Instead of merely removing prohibitions and permitting flexible schedules to be integrated into the total system, it mandates that the more than 100 Federal agencies participate.

It removes the CSC as a central planning and coordinating body and thus knocks out the careful organization and evaluation to make this system work. For an organization with over 2.8 million civilian employees, no system can work without planning, testing, and coordination. The bill also lacks finer consideration in the inequity of its provision granting premium pay levels to certain employees over others.

I am reluctantly opposing the bill. I would like to see it amended to follow more closely the carefully designed program which we first saw. I would also be interested in permitting the legislative and judicial branches to participate in the grand experiment. In short, if we are going to begin a project of this magnitude we ought to do it right. In H.R. 9043 we are doing the congressional way rather than the right way.

Mr. HENDERSON. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Maryland (Mrs. SPELLMAN).

(Mrs. SPELLMAN asked and was given permission to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Chairman, I would like to speak of flexitime as one who has been involved in setting up such a program, and I hope that the gentlemen who are concerned about the fact that this is to be a mandatory program will be listening.

In Prince Georges County, my county, we have such a program underway. We put it into effect several years ago in the library system. When I first talked about setting up such a program, I contacted the county executive who said, "Oh, no; it will not work." I contacted the executive officer and he said, "Oh, no; it will not work." I talked with a number of people throughout the county government who were all convinced it would not work. So then I went to the most imaginative person in administration in the county—and really the very best administrator we had—Betty Hage, the director of the library system. Because she could not turn me down since we had worked together for a long time, she agreed to set up an experiment.

She went to one of the library branches, talked with the employees there, and they were horrified at the thought. They wanted to turn it down, but she asked them as a special favor to try the program. In a sense, the obligation that she felt she had to me, caused her to make it mandatory upon that particular branch of the library system.

It was put into effect, and the results were very much what I had expected they would be. During the trial time it was found that fewer individuals were taking sick leave. Prior to the inception of the program, it appeared that when an employee was delayed at home

personal problem which would make him or her late, the employee opted for sick leave to cover the resultant tardiness. Now there is no tardiness, since the lateness in the morning can be made up at the end of the work day, as long as the "core time" is not violated. Most importantly, and something which should interest us all, is the fact that the employees' morale has risen considerably, and almost all participants truly enjoy the opportunity of choice.

The supervisors found that there was greater communication and coordination between the supervisors and employees, as well as between the employees themselves. With the flexibility of schedules, employees coordinate carpools, discussed their workload schedules, and, of course, worked out with the supervisors the flexitimes.

Employees within the flexitime system found that pressures and stresses were diminished since they had the flexibility to attend to personal and family matters. And, of course, the old problem, traffic jams, were often avoided since the workers did not necessarily travel during peak times, thus avoiding the frustrations of long delays in traffic.

In every way the situation was far better. As a result of the successes that these people were experiencing, and as a result of the fact that the program had been tried in the first place, other branches of the library service were beginning to ask to be permitted to go on flexitime. And they did. The public is better served under such a system since the number of hours that it can be served is easily expanded.

So you see the experiences of Prince George's County are very positive and rewarding. The best endorsement of the system came to my attention just this morning. I was talking to the aide of the head librarian who worked with me in instigating the system. She told me that as a working mother, she was delighted with flexitime. Just this morning, her son missed the school bus, and she knew that she could easily handle the crisis without jeopardizing her fine employment record.

I tell the Members this long story, because had the director of libraries felt obligated to try it, that system would never have been put into effect. It works beautifully.

I also want to point out that the provision requiring the agencies all to participate in the experiment does not mean that all employees will have to participate. The agency head has the authority under the bill to restrict the choice of arrival and departure time, to restrict the use of the credit hours, to exclude from the experiment any employee or group of employees if the carrying out of the agency function is impaired or additional costs are incurred; so we are giving enough flexibility within each agency to up the size of the experiment and to e the determination as to when and it can be implemented.

would hope that any thought of takout this mandatory provision would opped.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentlewoman for yielding.

I listened with interest to the gentlewoman's statement. There was one thing I have to admit I did not follow. Maybe she could explain it to me or be a little more specific. In pointing out that the morale improved, the gentlewoman made the statement that the number of hours that they worked was expanded. How would that be? Does she mean more hours were worked?

Mr. SPELLMAN. Yes. The number of hours that employees are working is greater because some come in earlier and some come in later.

Mr. ASHBROOK. The gentlewoman means the hours the library can be open; she does not mean the total hours worked?

Mrs. SPELLMAN. No. The hours the the public is being served. But no single employee works any longer during the workweek than previously.

Mr. ASHBROOK. But the total hours it took the library to operate in a given week were not increased; they would be the same?

Mrs. SPELLMAN. The total hours would be the same?

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. DERWINSKI. Mr. Chairman, I have no further request for time.

Mr. HENDERSON. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Ms. ABZUG).

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, I want to compliment the chairman of the committee for the excellent work done in reporting out this bill. Both the gentlewoman from California (Mrs. BURKE) and I have been very interested in this subject for quite some time. We introduced original bills on this matter in the House several years ago.

I think it is an important step forward. Flexible hours have been in use since 1967 in both the public and private sectors in our country as well as abroad.

I think the gentleman from New York (Mr. SOLARZ) and the gentlewoman from Maryland (Mrs. SPELLMAN), my very dear friend, have very ably added to the fine description of this bill made by the chairman.

It is a very important program. The reason the Civil Service Commission itself, by the way, requested the chairman to introduce the bill, which the committee worked on, was because the Civil Service Commission felt it was important to undertake a 3-year study that would be a widespread study to gage the impact of flexible and compressed scheduling on Federal civil service employees. The bill I believe attempts to provide a proper experiment on which a judgment can be made as to whether this should become a permanent program.

That is all the bill does in section 4. In order to judge the impact of flexible hours and the feasibility of making it a permanent component of the Federal Government it is desirable to have the maximum level of agency participation because only in that way can we obtain enough information to make a decision.

It has been stated that the use of flexitime throughout the Federal Government will provide data, as to its impact on mass transit, on highway utilization, on employee attitudes, on Government services, and on interagency operations.

At this point in the history of flexible hours we do not need another study which is based on a limited experiment. The General Accounting Office has reported that in this country 3,000 organizations employing over 1 million workers have implemented a 4-day, 40-hour work week. The Civil Service Commission statistics show that the Federal Government already has 28,000 employees in some 30 different organizations engaged in limited flexible work hours programs. In hearings various Federal employee organizations testified in support of the provision which would allow each agency to make flexitime available to its employees.

I think the bill carries out exactly what the flexitime and compressed schedule history in this country requires. In any case one need only read the bill to find that it is not quite as described by the other side of the aisle. The Civil Service Commission has the authority, as has been stated, to exempt from the operation of this act agencies that might possibly be adversely affected by it.

Also, the Commission may terminate any existing flexible hours program or compressed schedule program at any time if it determines that it is not in the best interests of the public or if the head of an agency determines that any department within an agency which is participating in the experiment is being handicapped in carrying out its functions or is incurring additional cost, or is adversely affecting its employees.

The CHAIRMAN. The time of the gentlewoman from New York has expired.

Mr. HENDERSON. Mr. Chairman, I yield the gentlewoman from New York 2 additional minutes.

Ms. ABZUG. Since this is a flexible hours bill and a compressed schedule bill, the bill itself shows enormous flexibility in terms of how the program for the 3-year experiment should be conducted.

Mr. Chairman, I do not think there is anything mandatory about it. What it does is have certain requirements which make it possible to obtain data on which a meaningful determination as to whether this program is viable or whether it is not a viable program can be made.

Mr. Chairman, I wish to again commend the committee for bringing this bill out. I urge everyone to support this bill and to defeat any amendments which seek to weaken it, because we really do not want to waste the time and the energy of the Congress and the time and the energy of Government by having yet another limited experiment from which we have enough data already. We need to go to the next step and decide whether this is a meaningful idea. We may decide after 3 years that it is not; but let us have the proper data to make the decision.

Mr. SOLARZ. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, as a member of the committee, I appreciate the comments of the gentlewoman with respect to the committee's work on the legislation; but it should be noted that these things do not happen just by accident around here. To a large extent what we were able to do in our committee was the direct result of the very important and effective work that the gentlewoman from New York and the gentlewoman from California did in bringing this to our attention and staying on top of the issue and working with us as we sought to shape the original legislation into a form that would be acceptable to the committee and to the Congress as a whole; so I simply want to pay tribute to the very effective work the gentlewoman did on this legislation.

Mr. DERWINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MYERS).

(Mr. MYERS of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Chairman, I take this time to direct a couple questions to the chairman.

I have some concern about the impact of this legislation on the levels employees in supervisory categories, particularly at the lower levels of management in regard to situations where department hours are flexible and extends the normal work day.

Is it the chairman's opinion that the bill adequately protects these persons from having to work longer hours as a result of this legislation. As an example, what happens if the department must provide for supervisory hours over a 10-hour period rather than an 8-hour period? What protection is in the bill for these classification of employees?

Mr. HENDERSON. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman.

Mr. HENDERSON. The bill clearly provides that any employee that is required to work beyond the hours in excess of the prescribed flexi-time or compressed hours would be compensated by overtime. It certainly would be our intent, at least during the time of the experimentation, that the agencies take into account the problem that the gentleman does talk about and insure that there is no requirement for their management personnel to have to stay on, even by virtue of the requirement of paying overtime, simply to accommodate the flexible time for the employees that that official may be supervising.

We have testimony that there are enough instances within the agencies where the employees can work without that required supervision to at least permit the performance as directed by the legislation.

Mr MYERS of Pennsylvania. In other words, disregarding special work rules or the normal situation where supervisory people are required to be on hand, a flexible hour type of situation cannot place upon a supervisor the demand that he spend more than 8 hours on the job at any particular day, but he can do so and would be compensated if he did so; is that the intention?

Mr. HENDERSON. There is no option on any employee to work more than the prescribed time and get overtime. That option is only at the direction of the management officials. I should also point out that the program envisions that it be a cooperative arrangement, and the scheduling of the duties and responsibilities; so that there would be no problem such as the gentleman describes.

Mr. MYERS of Pennsylvania. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, if I may have the attention of the gentlewoman from New York (Ms. ABZUG), of course I hate to engage in a debate with a future Member of the other body, but sometimes one is required to take those risks. But I would like to direct the gentlewoman's attention to the report of the hearings, specifically page 53, the letter from the Comptroller General. If I recall correctly, the gentlewoman from New York introduced a bill, H.R. 5451, and the Comptroller General's letter to Chairman HENDERSON stated:

We have maintained an informal working relationship with Civil Service Commission officials throughout the drafting of the bill and have reviewed several drafts of the proposals. We believe the present bill is responsive to the recommendations contained in our report. Further, we believe that H.R. 9043 will provide sufficient latitude to permit a fair test of the various work schedules envisioned in our report. Accordingly we prefer this bill to H.R. 5451 which also provides for experimentation with flexible work schedules.

So, the Comptroller General is really, in effect, supporting the amendments that I shall offer and he is not supporting the bill, the position taken by the gentlewoman from New York.

Ms. ABZUG. Well, I could understand them preferring their own bill. I do not know what point that proves. I can well understand it.

Mr. DERWINSKI. All I am proving is that the Comptroller General has approached this quite objectively and recognizes that the flexible time needed in the 3-year testing period is preferable to the mandatory provisions supported by the gentlewoman and her colleague from New York.

Ms. ABZUG. The gentleman has designated it "mandatory," but it really is, if he will read the provisions carefully it really sets out the basis for conducting an overall program. It establishes a program which provides for the conduct of one or more experiments in each of the agencies. It provides, as I indicated earlier—and that does not change by reason of the gentelman reading the Comptroller General's letter—it provides for exceptions to it on page 17 and on page 19. I think that gives us the flexibility we need. The gentleman is suggesting otherwise.

Mr. DERWINSKI. The key provision of the bill labeled "Experimental Program" reads: "Each agency shall establish a program."

In other words, "shall" is certainly not flexible. "Shall" is mandatory.

Ms. ABZUG. I grant that it should not say "shall not."

Mr. HENDERSON. Mr. Chairman, I have no further requests for time.

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a permanent basis.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in sections 105 and 102, respectively, of title 5, United States Code);

(2) the term "employee" has the meaning given it by section 2105 of title 5, United States Code;

(3) the term "Commission" means the Civil Service Commission; and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

EXPERIMENTAL PROGRAMS

SEC. 4. (a) Within 180 days after the effective date of this section, and subject to the requirements of section 302 and the terms of any written agreement referred to in section 302(a), each agency shall establish a program which provides for the conducting of one or more experiments under title I or II (or both) of this Act. Such experimental program shall cover a sufficient number of positions throughout the agency, and a sufficient range of worktime alternatives, as to provide an adquate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the agency

(b) The Commission shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this Act.

(c) If the head of an agency determines that the implementation of an experimental program referred to in subsection (a) would substantially disrupt the agency in carrying out its functions, he shall request the Commission to exempt such agency from requirements of subsection (a). Such request shall be accompanied by a report detailing the reasons for such determination.

ago this week. His early employment was in the construction industry, in inconspicuous bank jobs, and in farming. He joined the National Guard in 1905. For the next 6 years he worked to acquire military skills and knowledge that would serve him well in later years and enable him at the outbreak of World War I to organize the 2d Regiment of the Missouri Field Artillery. Later designated as the 129th Field Artillery, this unit saw service in three major campaigns on the battlefields of France. During his active military career, Harry S. Truman became a captain. As a Reserve officer he rose through the ranks of major and lieutenant colonel to full colonel, at which rank he was retired to the honorary Reserve.

The high moral principles that marked his later service to his community, State, and Nation were first demonstrated when, after the failure of his haberdashery business in the depression of 1921, he stubbornly refused to petition for bankruptcy but, instead, labored for 15 years to pay off his debts.

Mr. Truman served with distinction as eastern judge of the Jackson County Court, an administrative rather than judicial body, to which he was elected in 1922. It is with a sense of humility that I mention it was my honor and privilege to occupy that particular seat on the county court of Jackson County, Missouri for 7 terms after Mr. Truman's tenure and before coming to Congress.

Two years after his first political victory Mr. Truman suffered his first political adversity—which was to be the only defeat in his lifetime as he lost his bid for reelection to the court in 1924. But with his special talent for refusing to accept defeat, he came back in 1926 to be elected presiding judge, serving until running for and winning election to the U.S. Senate in 1934.

His service in the Senate was with a distinction that belied his natural humility. He was chairman of the subcommittee that wrote the Civil Aeronautics Act. He was cosponsor of the legislation that spelled out a comprehensive national transportation policy. In 1941 he suggested formation of the Senate Special Committee To Investigate the National Defense Program. As its first chairman, Senator Truman revealed waste and extravagance in the war effort that ultimately saved taxpayers many millions of dollars. Among opportunistic war contractors the so-called Truman Committee came to be feared as an institution that commanded unrelenting honesty in dealing with the Federal Government.

In 1944 he was nominated and elected to the Vice Presidency of the United States. Only one other Vice President, John Tyler, who served only 30 days, occupied that office for a shorter period than did Mr. Truman. Eighty-three days after he was sworn in as Vice President, Mr. Truman succeeded to the highest office in the land after the death of one of the most popular men ever to hold it and in perhaps the most difficult period in American history.

On Saturday of this week—the anniversary of the 92d birthday of the man who considered himself the 32d President—another monument will be unveiled to his memory.

But no stone and no metal can be more enduring than the character of the man the monument will honor.

Not only did he, a man relatively unknown outside of his own home State, accede to the highest office in the land after one of its most famous occupants, but for the ensuing 93 months was Chief of State in a time of unprecedented national and international turbulence.

The man from Independence was immediately confronted with problems enormous in scope. There was the Potsdam Conference just days after he took office. There was the terrible decision just a few months later to drop the atomic bomb. The Nation and the world were an emotionally unsettled people in the months following the end of World War II. But through the cold war and the difficult days of reconversion Harry Truman, having armed himself with all available facts as was his custom, and fortifying himself by prayer, which was also his custom, had the coolest head around. That coolness and confidence, qualities desperately needed for those times, prevailed through the cold war, formulation of the Greek-Turkish aid program, and implementation of the Marshall plan. It carried him through the political climate of the Philadelphia convention where some leaders of his own party endeavored to drop him from Presidential contention in 1948.

After the greatest political upset in history, Truman, now President in his own right, brought the United States into the United Nations, moved to formation and establishment of NATO, and ordered U.S. intervention in Korea as a matter of what he felt was responsibility to our allies. Unafraid of the adverse public reaction that was certain to come, he dealt firmly with a very popular Army general when General MacArthur demonstrated insubordinate traits.

Our Nation has repeatedly been blessed in times of adversity by the emergence of a George Washington, an Abraham Lincoln, a John J. Pershing and other great Americans when they were desperately needed. But at no time has our national need been better satisfied than when Harry S Truman, with his iron will, innate intelligence, dogged determination and endless fortitude, by an act of God, became available to lead a war-torn and troubled country.

With the passing of time the certainty grows that Mr. Truman will be recorded, as many historians have already predicted, as one of this Nation's five greatest Presidents.

We could use a Harry Truman today. His character and his traits could very well be emulated by the half dozen Presidential candidates who crisscross our Nation today in search of enough votes to become an occupant of the White House.

Statues and monuments are for reminding the world of great people and great events. As I observed at the beginning of these remarks no metal or stone can be more enduring than the examples that were set and the record written by the man from Independence.

PRODUCT LIABILITY LEGISLATION TO AID BUSINESS AND LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 10 minutes.

Mr. SARASIN. Mr. Speaker, today, my colleagues, Representatives ROSTENKOWSKI, GRADISON, ANDERSON, QUIE, RAILSBACK, MCKINNEY, MADIGAN, GUYER, VANDER VEEN, and I are introducing legislation to correct a problem that is reaching critical proportions—product liability.

Machine tool builders and other manufacturers of capital equipment throughout the country have been beleaguered by suits based on product liability. Workers who are injured in industrial accidents collect their workers' compensation benefits and then frequently bring actions against the manufacturers of the machines upon which they were injured. None of us here today would dispute the right of an injured worker to pursue action against any third party whose act of commission or omission may have caused his or her injury. However, it should be of great concern to us that many of these accidents for which the manufacturer must pay are not as a result of faulty equipment, but because of the failure of an employer to maintain a safe workplace. The problem facing manufacturers is compounded by the fact that the equipment on which the workers are injured is often at least 20 to 60 years old. During this time, modifications, adjustments, or refittings have occurred over which the original manufacturer had no control and no knowledge. Too, ownership of the machines often changes hands a number of times.

Under the law which presently exists, a manufacturer may not defend himself in court by bringing a negligent or unsafe employer into the action nor, in many instances, may he even introduce evidence as to the employer's unsafe practices. Compounding this inequitable situation is the fact that the employer, even the most negligent, has at his disposal a subrogation action whereby he, in the name of his injured employee, can bring suit against the machinery manufacturer for the amount of his "loss" suffered through hospitalization, rehabilitation, and wage replacement benefits paid to the injured employee. Again, the manufacturer cannot even introduce evidence of unsafe practices as a defense during this subrogation action.

This situation has led to an intolerable financial burden for many manufacturers, to an increase in product liability insurance premiums to the point where many smaller companies cannot afford it, or to the cancellation of product liability insurance altogether. This situation is not unlike that facing the medical community with its uncontrolled malpractice premiums, a catastrophe which is threatening the quality of our health care delivery system.

Beyond the economics of the problem, however, is a concern that goes

is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STRATTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9043) to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules as alternatives to present work schedules, pursuant to House Resolution 1166, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of the substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

The title was amended so as to read: "A bill to authorize Federal agencies to experiment with flexible and compressed employee work schedules."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 9043, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to meet tomorrow morning while the House is in session during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ORDER OF MEETING ON TOMORROW

Mr. GILBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER pro tempore (Mr. VANIK). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ORPHANS OF THE EXODUS

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRODHEAD. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

I would like to bring to my colleagues' attention the case of Mikhail Mager, whose wife, I understand, is in the House Gallery today. While his whole family was granted exist visas, Mikhail Mager was arbitrarily refused a visa for "security reasons," even though his job and army service were unrelated to security matters.

In an effort to help this man, I have written repeatedly to Soviet authorities, in both English and Russian. I have not even received the courtesy of a response. In the meantime, Mikhail Mager remains in the Soviet Union, separated from his family.

A compilation of case histories entitled "Orphans of the Exodus" dramatically details the tragic situation of the Mikhail Mager family, and I commend it to the Members' attention:

MIKHAIL MAGER

Mikhail Mager is a factory worker. In January 1972 his whole family applied for exit visas. Not only were they refused (three times), but at Mikhail's factory, the KGB staged a general staff meeting to condemn him. This meeting turned into an anti-Semitic orgy. Shouts from the audience included: "He ought to be killed." Denounced in the local paper, the Magers were accused of being traitors to the motherland.

In January 1973, the whole family was granted exit visas with the exception of Mikhail who was refused again on security reasons, even though there was no secrecy factor in either his job or his past army service. Assured by OVIR officials that Mikhail would soon join them, the family decided to leave for Israel. In a recent letter, the parents indict the Soviet government for refusing to honor this promise. They write:

"These assurances proved to be a fraud. Mikhail is still forcibly detained in Russia and his situation is getting menacing. He works as a simple worker (he is an electronic engineer). He has no friends or relatives in Russia; he has no home of his own. His telephone was cut off. . . .

"He is called to the KGB repeatedly for questioning and was recently told that his parents must stop writing letters of protest to the Soviet authorities.

"And now, after Stern's trial, the situation in Vinnitsa is very strained. We are very worried that Mikhail might be marked as the next victim by the KGB, particularly since he waived his Soviet citizenship and has been granted Israeli citizenship. . . .

"We hope you will add the name of Mager to the list of those who need your help."

In October 1975, five years after his army discharge, Mager was again denied a visa to emigrate.

CORRECTION OF THE RECORD

Mr. GOLDWATER. Mr. Speaker, I ask unanimous consent that my remarks be corrected. During the debate on H.R. 12704 on Tuesday, May 4, 1976, at page H3883 in the RECORD, my statement in the second column was incorrectly transcribed. It reads as follows:

I appreciate the comments by the chairman because it did appear to me that the committee views coincided with the amendment and the adoption of section 5 which expressly spells out who is to be the coordinator and that is the Administrator of the Environmental Protection Agency.

It should read as follows:

I appreciate the comments by the chairman because it did not appear to me that the committee views coincided with the amendment and the adoption of section 5, which expressly spells out who is to be the coordinator and that is not the Administrator of the Environmental Protection Agency.

I ask unanimous consent that the permanent RECORD be so corrected.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

[Mr. SKUBITZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO PRESIDENT TRUMAN

The SPEAKER pro tempore (Mr. VANIK). Under a previous order of the House, the gentleman from Missouri, Mr. RANDALL is recognized for 10 minutes.

Mr. RANDALL. Mr. Speaker, on Saturday, May 8, President Ford will unveil in Independence, Mo., a monument to the memory of our 32d President, former President Harry S. Truman. May 8, 1976, would, had he lived, have been Mr. Truman's 92d birthday. It will be a statute through which there is recreated the characteristic stance of Mr. Truman as he took his well-publicized morning strolls. But no metal and no stone can be more enduring than the history made by that man during one our Nation's most difficult periods.

More than 30 years have now elapsed since Mr. Truman's emergence as a national figure; unfortunately, the younger generation of our national leadership has little if any personal recollection of the Truman years. It is sad that others tend to submerge important historical events in the course of present day concerns. For these foregoing reasons, I want to talk for a few moments to recall a few of the highlights in the illustrious career of one of our most illustrious leaders.

Like many other great Americans, Harry S. Truman's early life was spent amid humble surroundings and in humble pursuits. He was born in the farm country of Barton County, Mo., 92 years

unit. In other words, this bill does permit a procedure by which the otherwise legitimate requirements of the Fair Labor Standards Act on maximum hours can be waived.

This would limit the ability of people to waive their rights under the act to those situations covered by written contract.

The bill, in another way, takes care of the problem with respect to the individual who is not a member of a collective bargaining unit. Section 203(e) of the bill provides that the premium pay provisions shall not be waived for employees who are not in a recognized bargaining unit unless the employee himself or herself waives it in a signed, written agreement. Then, later in the bill, in section 303, we prohibit any supervisor or other employee from intimidating, coercing, or otherwise threatening any employee for the purpose of waiving his or her rights under the provisions of the act. I think the combination of these provisions, plus this amendment, will meet the objections that have been raised by employees and their organizations.

Mr. HENDERSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Chairman, I thank the gentleman for yielding to me. We have had an opportunity to look at the amendment on this side. I am pleased to accept the amendment.

Mr. FORD of Michigan. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment.

I would hope to expedite this, but let me point out that this is not a simple, innocuous amendment. Let me explain what this amendment does.

Mr. Chairman, this amendment provides that, where employees are covered by the unit that has recognition, and a negotiated collective bargaining agreement with the Federal Government, they may waive in that bargaining the provisions of this bill.

This would mean that in such a condition they could negotiate, that if they work the 4-day, 10-hour-a-day schedule, that period of the day in excess of 8 hours they could be paid at an overtime rate.

This would mean that if a unit of Government would so negotiate this in a contractual agreement, that we would have a situation where in many departments and agencies people would be putting in under this program their 4-day, 10-hour-a-day schedule, with no overtime. But in a specific case, where this could be extracted by negotiation, certain employees would be paid overtime after 8 hours.

This would obviously create inconsistencies, it would create difficulties in comparing the workload of the two groups. It would result, really, in shortcutting the 4-day, 10-hour-a-day experiment.

Mr. Chairman, I grant that the argument that may come from the proponents is that who in his right mind in management would negotiate such a provision.

But the point is that this amendment would make that a basis for negotiation. And if at some point that became part of the agreement, we would have a situation where some Federal employees would be working this new flexitime 4-day, 10-hour day at straight time; others by agreement would be paid overtime after 8 hours a days.

So this, far from being a simple amendment, really is one that has tremendous complications. I would suggest that upon careful review this amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 76, noes 268, not voting 88, as follows:

[Roll No. 244]

AYES—76

Adams	Evans, Colo.	Mineta
Ambro	Fary	Mink
Aspin	Fascell	Mitchell, Md.
Badillo	Flood	Morgan
Beard, R.I.	Florio	Murphy, N.Y.
Bingham	Ford, Mich.	Nolan
Blanchard	Ford, Tenn.	Oberstar
Blouin	Gaydos	O'Hara
Brodhead	Gonzalez	Price
Brown, Calif.	Hanley	Rangel
Burke, Calif.	Harrington	Richmond
Burke, Mass.	Harris	Roe
Burton, John	Henderson	Rooney
Burton, Phillip	Howard	St Germain
Carney	Johnson, Calif.	Selberling
Carr	Jordan	Simon
Chisholm	Koch	Solarz
Clay	Lehman	Stokes
Collins, Ill.	McFall	Thompson
Conyers	Matsunaga	Vander Veen
Dellums	Meeds	Vanik
Diggs	Melcher	Waxman
Dingell	Metcalfe	Wolff
Drinan	Meyner	Young, Ga.
Early	Mezvinsky	
Eilberg	Miller, Calif.	

NOES—268

Abdnor	Burlison, Mo.	Edgar
Addabbo	Butler	Edwards, Ala.
Allen	Carter	Edwards, Calif.
Anderson, Calif.	Cederberg	Emery
Andrews, N.C.	Chappell	English
Andrews, N. Dak.	Clausen, Don H.	Erlenborn
Annunzio	Clawson, Del	Evans, Ind.
Archer	Cleveland	Fenwick
Armstrong	Cochran	Findley
Ashbrook	Cohen	Fish
Ashley	Collins, Tex.	Fisher
Bafalis	Conable	Fithian
Baldus	Conlan	Flynt
Baucus	Conte	Foley
Bauman	Cornell	Forsythe
Beard, Tenn.	Cotter	Fountain
Bedell	Crane	Fraser
Bennett	D'Amours	Frenzel
Bergland	Daniel, Dan	Frey
Bevill	Daniel, R. W.	Gibbons
Biester	Daniels, N.J.	Gilman
Boland	Danielson	Ginn
Brademas	Davis	Goldwater
Breaux	de la Garza	Goodling
Breckinridge	Dent	Gradison
Brinkley	Derrick	Grassley
Brooks	Derwinski	Guyer
Broomfield	Devine	Hagedorn
Brown, Mich.	Dickinson	Haley
Broyhill	Dodd	Hall
Burgener	Downing, Va.	Hamilton
Burke, Fla.	Duncan, Oreg.	Hammer-schmidt
Burleson, Tex.	Duncan, Tenn.	Hannaford
	du Pont	Hansen
	Harkin	McKinney
	Harsha	Madigan
	Hawkins	Mahon
	Heckler, Mass.	Mann
	Hefner	Martin
	Heinz	Mazzoli
	Hicks	Michel
	Hightower	Milford
	Hillis	Miller, Ohio
	Holland	Mills
	Holt	Minish
	Holtzman	Moakley
	Horton	Moffett
	Howe	Mollohan
	Hubbard	Montgomery
	Hughes	Moore
	Hungate	Moorhead, Calif.
	Hutchinson	Moorhead, Pa.
	Hyde	Mosher
	Ichord	Moss
	Jarman	Mottl
	Jeffords	Murphy, Ill.
	Jenrette	Murtha
	Johnson, Colo.	Myers, Ind.
	Johnson, Pa.	Myers, Pa.
	Jones, Ala.	Natcher
	Jones, N.C.	Neal
	Jones, Okla.	Nichols
	Jones, Tenn.	Nowak
	Kasten	Obey
	Kastenmeier	O'Brien
	Kazen	O'Neill
	Kelly	Ottinger
	Kemp	Passman
	Kindness	Patten, N.J.
	Krebs	Patterson, Calif.
	Krueger	Pattison, N.Y.
	LaFalce	Paul
	Lagomarsino	Perkins
	Latta	Pettis
	Leggett	Pickle
	Lent	Poage
	Levitas	Pressler
	Lloyd, Calif.	Preyer
	Lloyd, Tenn.	Pritchard
	Long, La.	Quie
	Long, Md.	Rees
	Lott	Reuss
	Lujan	Rinaldo
	Lundine	Roberts
	McClory	Robinson
	McCollister	Rodino
	McCormack	Rogers
	McDade	Roncalio
	McEwen	Rose
	McHugh	Roush
	McKay	Rousselot
		Runnels
		Ruppe
		Russo
		Santini
		Sarasin
		Satterfield
		Scheuer
		Schneebeli
		Schroeder
		Schulze
		Sebelius
		Sharp
		Shipley
		Shriver
		Shuster
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Spence
		Staggers
		Stanton, J. William
		Steiger, Wis.
		Stephens
		Stratton
		Sullivan
		Talcott
		Taylor, Mo.
		Taylor, N.C.
		Thone
		Thornton
		Treen
		Tsongas
		Van Deerlin
		Vander Jagt
		Vigorito
		Waggonner
		Walsh
		Wampler
		Whalen
		Whitehurst
		Whitten
		Wiggins
		Wilson, Bob
		Winn
		Wirth
		Wydler
		Yates
		Young, Alaska
		Young, Fla.
		Young, Tex.
		Zablocki

NOT VOTING—88

Abzug	Hechler, W. Va.	Rostenkowski
Alexander	Helstoski	Roybal
Anderson, Ill.	Hinshaw	Ryan
AuCoin	Jacobs	Sarbanes
Bell	Karth	Sikes
Biaggi	Ketchum	Sisk
Boggs	Keys	Spellman
Bolling	Landrum	Stanton, James V.
Bonker	Litton	Stark
Bowen	McCloskey	Steed
Brown, Ohio	McDonald	Steelman
Buchanan	Macdonald	Steiger, Ariz.
Byron	Madden	Stuckey
Clancy	Maguire	Studds
Corman	Mathis	Symington
Coughlin	Mikva	Symms
Delaney	Mitchell, N.Y.	Teague
Downey, N.Y.	Nedzi	Traxler
Eckhardt	Nix	Udall
Esch	Pepper	Ullman
Eshleman	Peyser	Weaver
Evins, Tenn.	Pike	White
Flowers	Quillen	Wilson, C. H.
Fuqua	Railsback	Wilson, Tex.
Giaimo	Randall	Wright
Green	Regula	Wylie
Gude	Rhodes	Yatron
Hayes, Ind.	Riegle	Zeferetti
Hays, Ohio	Risenhoover	
Hébert	Rosenthal	

Ms. HOLTZMAN and Messrs. YATE McHUGH and KREBS changed th vote from "aye" to "no."

Mr. ADAMS changed his vote "no" to "aye."

So the amendment was rejected

The result of the vote was anno as above recorded.

The CHAIRMAN. Are there an ther amendments? If not, the q

the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The pending business is the demand by the gentleman from New York (Mr. SOLARZ) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 112, not voting 80, as follows:

[Roll No. 243]

AYES—240

Addabbo	du Pont	Kastenmeier
Adams	Edwards, Ala.	Kazen
Allen	Emery	Kelly
Ambro	English	Kemp
Andrews, N. Dak.	Erlenborn	Kindness
Archer	Evans, Colo.	Krebs
Armstrong	Evans, Ind.	Krueger
Ashbrook	Fenwick	LaFalce
Ashley	Findley	Lagomarsino
Aspin	Fish	Latta
Bafalis	Fisher	Leggett
Bauman	Fithian	Lent
Beard, Tenn.	Floric	Levitas
Bedell	Flynt	Lloyd, Tenn.
Bennett	Foley	Long, Md.
Bevill	Forsythe	Lott
Biester	Fountain	Lujan
Boland	Frenzel	Lundine
Bonker	Frey	McClory
Breaux	Gaydos	McCollister
Breckinridge	Gibbons	McCormack
Brinkley	Gilman	McDade
Brooks	Ginn	McEwen
Broomfield	Goldwater	McKay
Brown, Mich.	Goodling	McKinney
Broyhill	Gradison	Madigan
Burgener	Grassley	Mahon
Burke, Fla.	Guyer	Mann
Burke, Mass.	Hagedorn	Martin
Burleson, Tex.	Haley	Mazzoli
Butler	Hall	Melcher
Byron	Hamilton	Michel
Carter	Hammer-schmidt	Milford
Cederberg	Hannaford	Miller, Ohio
Chappell	Hansen	Minish
Clausen, Don H.	Harsha	Mink
Clawson, Del	Heckler, Mass.	Mollohan
Cleveland	Hefner	Montgomery
Cochran	Heinz	Moore
Cohen	Hicks	Moorhead, Calif.
Collins, Tex.	Hightower	Moorhead, Pa.
Conable	Hillis	Mosher
Conlan	Holland	Mottl
Conte	Holt	Murphy, Ill.
Cotter	Horton	Murtha
Crane	Howard	Myers, Ind.
D'Amours	Howe	Myers, Pa.
Daniel, Dan	Hubbard	Natcher
Daniel, R. W.	Hughes	Neal
Davis	Hungate	Nichols
de la Garza	Hutchinson	Nowak
Delaney	Hyde	O'Brien
Dent	Ichord	Passman
Derrick	Jarman	Patten, N.J.
Derwinski	Jeffords	Paul
Devine	Johnson, Colo.	Pettis
Dickinson	Johnson, Pa.	Pickle
Dingell	Jones, Ala.	Poage
Downing, Va.	Jones, N.C.	Pressler
Duncan, Oreg.	Jones, Okla.	Preyer
Duncan, Tenn.	Jones, Tenn.	Pritchard
Eckhardt	Kasten	Quie
Edgar	Kazen	Quillen
Edwards, Ala.	Kelly	Railsback
Emery	Kemp	Randall
English	Kindness	Regula
Erlenborn	Krebs	Rhodes
Evans, Colo.	Krueger	Riegle
Evans, Ind.	LaFalce	Rinaldo
Fenwick	Lagomarsino	Roberts
Findley	Latta	Robinson
Fish	Leggett	Roe
Fisher	Lent	Rogers
Fithian	Levitas	Rose
Floric	Lloyd, Tenn.	Roush
Flynt	Long, Md.	Rousselot
Foley	Lott	Runnels
Forsythe	Lujan	Ruppe
Fountain	Lundine	Russo
Frenzel	McClory	Santini
Frey	McCollister	Sarasin
Gaydos	McCormack	Satterfield
Gibbons	McDade	Schneebeli
Gilman	McEwen	Schulze
Ginn	McKay	Sebelius
Goldwater	McKinney	Sharp
Goodling	Madigan	Shipley
Gradison	Mahon	Shriver
Grassley	Mann	Shuster
Guyer	Martin	Sikes
Hagedorn	Mazzoli	Sisk
Haley	Melcher	Skubitz
Hall	Michel	Slack
Hamilton	Milford	Smith, Nebr.
Hammer-schmidt	Miller, Ohio	Snyder
Hannaford	Minish	Spence
Hansen	Mink	Stanton, J. William
Harsha	Mollohan	Steiger, Wis.
Heckler, Mass.	Montgomery	Stephens
Hefner	Moore	Stratton
Heinz	Moorhead, Calif.	Talcott
Hicks	Moorhead, Pa.	Taylor, Mo.
Hightower	Mosher	Taylor, N.C.
Hillis	Mottl	Thone
Holland	Murphy, Ill.	Thornton
Holt	Murtha	Treen
Horton	Myers, Ind.	Van Deerlin
Howard	Myers, Pa.	Vander Jagt
Howe	Natcher	Vigorito
Hubbard	Neal	Waggonner
Hughes	Nichols	Walsh
Hungate	Nowak	Wampler
Hutchinson	O'Brien	Whalen
Hyde	Passman	Whitehurst
Ichord	Patten, N.J.	Wiggins
Jarman	Paul	Wilson, Bob
Jeffords	Pettis	Winn
Johnson, Colo.	Pickle	Wirth
Johnson, Pa.	Poage	Wydler
Jones, Ala.	Pressler	Yatron
Jones, N.C.	Preyer	Young, Alaska
Jones, Okla.	Pritchard	Young, Fla.
Jones, Tenn.	Quie	Young, Tex.

NOES—112

Abzug	Fary	Murphy, N.Y.
Addabbo	Fascell	Nolan
Anderson, Calif.	Flood	Oberstar
Andrews, N.C.	Ford, Mich.	Obey
Annunzio	Ford, Tenn.	O'Hara
Badillo	Fraser	O'Neill
Baldus	Gonzalez	Ottinger
Baucus	Green	Patterson, Calif.
Beard, R.I.	Hanley	Pattison, N.Y.
Bergland	Harkin	Perkins
Bingham	Harrington	Price
Blanchard	Harris	Rangel
Blouin	Hawkins	Rees
Brademas	Henderson	Reuss
Brodhead	Holtzman	Richmond
Brown, Calif.	Jacobs	Rodino
Burke, Calif.	Jenrette	Roncalio
Burlison, Mo.	Johnson, Calif.	Rooney
Burton, John	Jordan	St Germain
Burton, Phillip	Keys	Scheuer
Carney	Koch	Schroeder
Carr	Lehman	Seiberling
Chisholm	Lloyd, Calif.	Simon
Clay	Long, La.	Smith, Iowa
Collins, Ill.	McFall	Solarz
Conyers	Matsunaga	Staggers
Cornell	Meeds	Stokes
Daniels, N.J.	Metcalfe	Sullivan
Dellums	Meyner	Thompson
Diggs	Mezvinsky	Tsongas
Dodd	Miller, Calif.	Vander Veen
Downey, N.Y.	Mills	Vanik
Drinan	Mineta	Waxman
Early	Mitchell, Md.	Wolff
Edgar	Moakley	Yates
Edwards, Calif.	Moffett	Young, Ga.
Ellberg	Morgan	Zablocki
	Moss	

NOT VOTING—80

Alexander	Hinshaw	Rostenkowski
Anderson, Ill.	Karth	Roybal
AuCoin	Ketchum	Ryan
Bell	Landrum	Sarbanes
Blaggi	Litton	Spellman
Boggs	McCloskey	Stanton, James V.
Bolling	McDonald	Stark
Bowen	McHugh	Steed
Brown, Ohio	Macdonald	Steelman
Buchanan	Madden	Steiger, Ariz.
Clancy	Maguire	Stuckey
Corman	Mathis	Studds
Coughlin	Mikva	Symington
Delaney	Mitchell, N.Y.	Symms
Eckhardt	Nedzi	Teague
Esch	Nix	Traxler
Eshleman	Pepper	Udall
Evins, Tenn.	Peyser	Ullman
Flowers	Pike	Weaver
Fuqua	Quillen	White
Giaimo	Railsback	Whitten
Gude	Randall	Wilson, C. H.
Hayes, Ind.	Regula	Wilson, Tex.
Hays, Ohio	Rhodes	Wright
Hébert	Riegle	Wylie
Hechler, W. Va.	Risenhoover	Zeferetti
Helstoski	Rosenthal	

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: Page 24, line 12, strike out "An agency may except from an experiment" and insert in lieu thereof "An agency shall except from an experiment"

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Chairman, this amendment simply makes it clear that an agency must except from any experiment—that is, 4-day work week or other compressed scheduled—any employee for whom the experiment would impose a personal hardship.

The bill as reported by committee does not make this clear enough. My amendment simply says that the agency shall except rather than may except.

Mr. HENDERSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Chairman, we have had an opportunity to look at the gentleman's amendment. There is no opposition on this side of the aisle, and I am pleased to accept the amendment.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, this is a fine amendment. We have no objection to it on this side of the aisle.

Mr. FORD of Michigan. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan. Page 25, line 2, strike out "(a) The provisions of" and insert in lieu thereof "(a) (1) Except as provided in paragraph (2), the provisions of".

Page 25, after line 7, insert the following new paragraph:

"(2) In the case of employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition, the provisions of law referred to in paragraph (1) shall apply to hours which constitute a compressed schedule unless there is an express provision in a written agreement between the agency and the organization which states such provisions should not apply with regard to employees within that unit."

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Chairman, the committee language in the bill already says that an employee who belongs to a collective bargaining unit which has been accorded exclusive recognition may not be included in an experiment unless the experiment is expressly agreed to in a written agreement between the agency and the collective bargaining unit.

My amendment would provide that section 7 of the Fair Labor Standards Act—that is, the maximum hours provision—and overtime provisions of title V would not be waived for these employees unless this waiver was also expressly agreed to in a written agreement between the agency and the collective bargaining

Mr. BEARD of Tennessee. Yes, certainly.

Mr. HENDERSON. That is correct, except by virtue of the language which does permit them to request from the Civil Service Commission an exemption from the mandatory language in which he would justify that exemption by showing that it is not possible and feasible. It is for that reason that the language that the gentleman referred to in the committee report is reflected in the provisions of the bill itself on page 19, which says that if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being handicapped, and so on, it may be exempted and the experiment may be bona fide; but generally speaking, the gentleman is correct, the language of the bill as presented we expect every agency head to look within his agency to see if he can carry on an experimental program during this 3-year period to carry out the purposes of the act.

Mr. BEARD of Tennessee. Mr. Chairman, I thank the gentleman for those remarks.

We have close to 200 Federal agencies trying to carry out their normal functions and then all of a sudden trying to decide what the ramifications would be as to the implementation of flexible work schedules, as to interagency contacts, looking for different timetables and responsibilities throughout the country. It seems to me that the most legitimate approach, and I do not understand the great controversy against the amendment of my colleague, the gentleman from Illinois, as to saying let us try it on a trial basis. Let us bring it together in one central area and go from there; but if we have almost 200 agencies going in different directions with different studies, it will be an absolute nightmare.

Mr. HENDERSON. Mr. Chairman, if the gentleman will yield further, it is my hope that as the bill, whether mandatory or permissive, is fully utilized, there is a great possibility that these programs can bring about efficiency, better service to the people and savings of the taxpayers' money, that can be done very efficiently. I intend to argue for the mandatory provision.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(By unanimous consent Mr. BEARD of Tennessee was allowed to proceed for an additional 2 minutes.)

Mr. HENDERSON. Mr. Chairman, will the gentleman yield further?

Mr. BEARD of Tennessee. I yield to the gentleman.

Mr. HENDERSON. I do have one question about the mandatory provision, to make my own position very clear. The administration was in support of the legislation as introduced when it was voluntary and did not have a mandatory requirement in it. If we could be absolutely assured that that support of the legislation would mean that the experiment would be vigorously carried on everywhere in the country, then I would tend to support the administration's position; but the proponents of the mandatory language have made a case that the mandatory language will insure experiments being carried on with the objective of greater efficiency, better employee morale, increased productivity, less sick leave. If the experiments prove that, then it should become law. If the experiments do not prove that, then clearly the Congress as it later considers this whole system would not go that route.

Mr. BEARD of Tennessee. I appreciate my chairman's input.

I would like to just close by saying I cannot understand the controversy or the adverse remarks regarding the fact that we would just like this amendment to bring it back to the original language, which would mean, as stated on page 37 of the report:

> Only a limited number of experiments will be permitted. The Commission will seek the cooperation of other appropriate agencies to assist in the evaluation of specific areas of potential impact. The Commission will be responsible for the overall development of the master program plan, for coordination among all agencies involved in the development of the criteria to be used for evauation, and for the preparation of appropriate interim and final reports.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word, and I rise to speak in support of the amendment.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I am delighted to see how far this Congress has come from the time in the past when I asked another committee's support to amend the Fair Labor Standards Act to provide for flexible work weeks in the private sector. The committee refused even to hold hearings on it. I think the new congressional enlightenment is just marvelous.

I do, however, think that by making the program mandatory, this House will really spoil what might be an excellent test. The use of the word "experimental" to which the committee members refer regularly really does not apply here. It is not experimental because we are telling every agency to do it whether it wants to or not.

Therefore, it seems to me that those agency heads will look for ways to justify nonuse of the program.

So, I think the committee, in trying to put this program in full scale use before any responsible test, is really acting in a way that is counterproductive to its own intent.

I think the Derwinski amendment should certainly be agreed to. Then we could perform a responsible test, and subsequent evaluation, of this program to find out whether or not it works.

Since the gentleman from New York (Mr. SOLARZ) is unable to define what "substantially disrupting an agency" is, I wonder if I might ask the distinguished chairman of the committee, the gentleman from North Carolina (Mr. HENDERSON) what "substantial disruption" means.

Does this mean that if there are extra costs laid upon the taxpayer, that is good grounds for not adopting the experimental—the gentleman's word—programs?

Mr. HENDERSON. If the gentleman will yield——

Mr. FRENZEL. I yield to the distinguished chairman.

Mr. HENDERSON. It is my understanding that costs to the agency would certainly be one of the factors, but I would think that if there were no other factors that would limit the ability of the agency to put in effect the experimental program, that this standing alone would not be sufficient or substantial interference with the agency's mission.

Mr. FRENZEL. So the chairman's opinion is that, if 150 agencies ask for exemption on the basis that it is going to cost the taxpayers a little bit more in each agency, each agency would not be exempted by the commission and they would have to go forward with the program notwithstanding the additional cost?

Mr. HENDERSON. If the gentleman will yield further, my answer is that if cost alone was the criteria—but let me again make it clear that what we are talking about is the cost of carrying on an experimental program that will save money. Now if, in the study by the agency, it finds that it is going to cost more money than it saves, and beyond that interferes with the mission, then I think it would be very easy for any or all of the agencies to get their exemptions from the Civil Service Commission.

Mr. FRENZEL. I like the gentleman's second answer much better than the first, because it seems to me that we are really trying to save money, to serve the people better, to satisfy our employees and encourage greater productivity. I believe that was the intent.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I think it should also be reemphasized that the issue involved in the amendments is, shall we not have a legitimate 3-year test to determine the best way to handle this flexitime use of personnel, rather than immediately imposing a program on every agency before there is a test, before we determine the best means of doing it?

That is really the issue that guides us, whether it is a test or an imposition.

Mr. FRENZEL. I thank the gentleman. I did not mean to lose sight of that. The point I was making was, in an honest experimental program such as the gentleman from Illinois has proposed, agencies will have some incentive and enthusiasm to participate. In a mandatory program which is laid upon them by force by a Congress that does not understand the program very well, they are going to have an inverse incentive to look for ways to get out of the program. Therefore, the mandatory program will not realize the greatest benefits of flexible scheduling.

Mr. Chairman, I urge adoption of the Derwinski amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

The question was taken; and on a division (demanded by Mr. SOLARZ) there were—ayes 18, noes 10.

Mr. SOLARZ. Mr. Chairman, I demand a recorded vote and, pending that, I make

after this 3-year experiment we will have the proper data to decide whether or not it is a meaningful program.

That, I think, is what is being missed in the debate on the amendments that are being proposed. These amendments are unnecessary.

Interestingly enough, as I recall the hearings on this issue, having read the accounts of the hearings, the National Federation of Federal Employees and the president of Federally Employed Women testified in support of a provision requiring each agency to make flexible hours or a compressed schedule available to their employees. So it seems to me that we are responding to real problems with a program that has shown some enormously effective results in the private and public sectors, one which the employees want, one which the public wants, one that the private sector wants; and I would think that the gentleman would withdraw his amendment so that we can go on and put into effect the operation of the program.

I urge my colleagues to defeat the amendment.

Mr. DERWINSKI. Mr. Chairman, will the gentlewoman yield for an observation?

Ms. ABZUG. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentlewoman for yielding.

The testimony before us from the Federal Employee Organization is that they support the Civil Service Commission's 3-year experimental approach. That is the only indication we have from an employee group. We had an individual witness who was a Federal employee who supported the original bill. The issue is this: We agree on one thing; we want the employees to be better served; but I believe that the employees could be better served if we have a meaningful experiment that will permit a proper application of a program, not a premature mandatory application.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. KRUEGER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KRUEGER asked and was given permission to revise and extend his remarks.)

Mr. KRUEGER. Mr. Chairman, I have studied this bill, and one of the striking things about it is that like many items of legislation which we consider in this Congress, we are imposing through this bill a set of restrictions on others that we do not choose to impose upon ourselves. I am told by my colleague, the gentleman from New York, that we should consider theory to be superior to fact, as he quotes Mr. Hegel. But I should like as well to quote Immanuel Kant, who says in his Categorical Imperatives:

To act that the maxim on which you act become a universal law of nature.

It is his philosophical interpretation of the Golden Rule, and I think it is appropriate, and in the spirit of the Golden Rule—and perhaps I read Kant more than Hegel—to consider that we impose upon ourselves what we wish to impose upon others.

If it is appropriate for the executive branch to have flexible working hours, because according to the gentlewoman from New York it "would not serve the common good if it were restricted and limited," then perhaps we should not restrict and limit the good only to the executive branch but should make it available to the legislative branch. Yet, if I read the bill correctly, I do not find that this bill extends these rights to the Congress. I wonder, would the gentleman from New York care to comment on that?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from New York.

Mr. SOLARZ. I appreciate the gentleman's yielding on this point.

I did not come here this afternoon to carry the cudgels of Hegel and Kant. They both sound like philosophical men, and I have no objection to applying his categorical imperatives to this particular legislation.

I do not know about the office of the gentleman in the well, but I know in my office we already have in effect a flexitime program that exists because people come in early in the morning and they leave late at night.

When they have to do their own thing, they do it.

If the gentleman really believes that this legislation would be enhanced by establishing the law requiring a formal establishment of a flexitime program for Congress, I would be delighted to support it, but my impression is that virtually every congressional office to a certain extent already functions on that basis because the lights are burning late at night and people are coming in earlier or later in the morning as necessary.

Mr. KRUEGER. But that could be worked out without specific legislation on the part of the Congress requiring it. It has come about already because of the needs of the people in the different offices and the realization that the people could work in a reasonable, flexible pattern. I would find it difficult if my employees would wish to work only 4 days a week to work only in that way. It would make more sense to me to realize that other people in other agencies might be able to define for themselves such flexibility without our passing a law for it.

That is the point and intent of this amendment and I think it would be a "statesmanlike" thing to do, if I might borrow a term referred to earlier by the gentleman from Illinois, if we would allow them to do that.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield further?

Mr. KRUEGER. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I simply wanted to observe if in fact there are various Federal agencies that would want to establish such programs on a sufficiently mass basis, we would not need the legislation. We felt the program would certainly make sense and there was in the legislation a way to do it and we felt we would build into the legislation a series of protections in order to make sure that not a single employee would be required to participate in such a program against his will.

Mr. KRUEGER. I feel that programs of this kind should not be mandatory; but if the Congress imposes mandatory restrictions on the executive branch, it should treat itself as an equal branch and impose the some restrictions on itself. If Congress did that more often, we might get better legislation, and we might proceed more cautiously if we faced the same restrictions we would impose on others. If we are not to do that, we should then not make the test mandatory. And since the bill does not assert this equality between the executive and legislative branch. I urge adoption of the amendment of the gentleman from Illinois.

Mr. BEARD of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BEARD of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. BEARD of Tennessee. Mr. Chairman, I am not that familiar because I was not able to spend any time in the real hearings on this particular piece of legislation but in trying to prepare myself for it I have read the report. On page 16 in the "Background" segment I was somewhat confused, and this is presented by the committee itself for the bill, as to several of the paragraphs. They really seemed to speak in support of the amendments offered by my colleague, the gentleman from Illinois. Let me just briefly cover this. This is committee language in the report:

While a number of advantages have been reported as a result of the introduction of flexible and compressed work schedules, a number of negative factors for agency managers as well as for employees may occur in a change from normal work day patterns. Moreover, it must be recognized that these types of schedules will not be suitable under all circumstances. In every case, the introduction of any of these schedules must be a carefully considered judgment. For example, under a flexible work schedule, the greater the degree of flexibility, the greater will be the need for some form of objective record-keeping on hours worked.

There could be undesirable effects on interagency contacts, availability of key personnel, and the timeliness of responses. Extended hours of operation may also impose additional burdens on supervisory personnel. Extended hours may increase overhead costs, i.e., heating/cooling, lighting and security.

Accordingly, only through the development of careful experimental designs and the cooperation of those agencies with expertise in each of the potentially impacted areas can the potential of these programs for the Federal Government be assessed.

I would like to ask my chairman how many governmental agencies are there in the Federal Government?

Mr. HENDERSON. Mr. Chairman, if the gentleman will yield, about 150, I think.

Mr. BEARD of Tennessee. There are 150 agencies. The way I understand this bill, not the original way the bill was but the way it is now, each agency head is responsible for coming up with some type of flexible work schedule.

Mr. HENDERSON. Mr. Chairman, will the gentleman yield further?

Mrs. BURKE of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. DERWINSKI) which would seriously limit the requirement that each agency participate in a program to experiment with flexible work hours and compressed work weeks.

Limiting the flexible work scheduling experiment to a minimum number of Federal agencies is unsatisfactory and the findings could prove to be inconclusive. There have already been numerous sporadic efforts at flexible scheduling experiments within the public and private sector which have shown some positive results. However, up until now, these experiments have been piecemeal with little comprehensive analysis of the advantages and disadvantages to management and employees. By requiring all Federal agencies to participate in the experiment, this legislation offers us the opportunity to examine the impact of flexible and compressed work schedules on a wide variety of Federal agencies which have a broad spectrum of tasks and functions. I do not believe that a more limited use of flexible hours will be as valuable, nor will the finding allow us to draw substantive conclusions.

The bill does provide for voluntary participation in flexible scheduling by employees, so that while all agencies will be required to take part in the experiment, the involvement of individual employees is on a voluntary basis.

If my many discussions with various people about alternative work scheduling are any indication, the agencies will find little difficulty in getting employees willing and eager to participate in the experimental program.

I would have preferred that the committee report out, with this flexible hours bill, a bill I have introduced which provides for part-time employment opportunities in the Federal Government. These are complementary, not competing, concepts and we would do well to offer opportunities for agencies to experiment with several alternative scheduling patterns.

My study of alternative work patterns over the past 3 years has convinced me that alternative work scheduling will significantly benefit both the employer and th employee. Reports by GAO, the Department of Labor, Business and Professional Women's Foundation, and various private companies have shown that flexible hours work schedules can increase employee productivity and efficiency, improve employee morale and attendance, provide better services to the public, reduce overtime expenses, eliminate considerable traffic congestion, and open up job opportunities for people who are unable to work standard hours.

Mr. Chairman, I urge my colleagues to join me in defeating the Derwinski amendments and passing the committee bill.

Mr. DERWINSKI. Mr. Chairman, would the gentlewoman yield?

Mrs. BURKE of California. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, just to keep the record clear, I am looking at the transcript of the full committee meeting of Thursday, February 19, and that was when the committee approved the bill. Our dear colleague, the gentlewoman from Maryland (Mrs. SPELLMAN) supported the amendment, and I read from her remarks:

> I think in the beginning it's important for coercion in the beginning of such a program.

That is exactly the argument for the amendment, the language I am trying to remove by my amendment. So really this does show in the record that coercion is expected.

Mrs. BURKE of California. We will have to ask the gentlewoman from Maryland, (Mrs. SPELLMAN) to explain her remark in the committee. We have a proposed piece of legislation before us and we should be guided by what that legislation provides. I happen to believe that we are going to have so many people who would just love to have some flexibility that we will not have to have coercion. There are so many employees who would say, "If I could just work 4 days a week, and work 10 hours those days, it just would change my whole life style and would give me the opportunity to do things that I am not able to do now when I am tied down with the present hours."

So, Mr. Chairman, I urge that we go along with the legislation that is before us rather than the statements being made by any number of people. Because again I say I do not believe we will have to coerce anybody, we will find people standing in line wanting to do this.

Mrs. SPELLMAN. Mr. Chairman, would the gentlewoman yield?

Mrs. BURKE of California. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, what the bill now provides is exactly what I was asking for, and that is making this mandatory on the agencies, covering each agency, unless it has good reason not to do so, each agency being required to provide an experiment like this.

I am sure the Members know that our Federal Government and the Civil Service Commission often have to be carried kicking and screaming into the next century. In this case we are saying that every agency shall experiment, except if it creates a problem, except if the employees do not want it, but that every agency should give the employees the opportunity to try this flexitime program.

So that is what I meant by coercion, coercing the Civil Service Commission, which needs a little coercion, not the employees, who will be very anxious to take on this new dimension.

The CHAIRMAN. The time of the gentlewoman has expired.

Ms. ABZUG. Mr. Chairman, I move to strike the requisite number of words.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, I have already addressed myself to the issue and the substance of this amendment. I would like to call the attention of the gentleman from Illinois to the actual statute, as the gentlewoman from California (Mrs. BURKE) has suggested. On page 28 of the bill—and this is legislation that the gentleman from Illinois participated in drafing and reporting out. It is entitled "Prohibition of Coercion." This whole section of the statute deals with the question the gentleman from Illinois seems to be concerned with. I think it is very important that the gentleman from Illinois and all of the Members be aware of this provision. It reads:

> PROHIBITION OF COERCION
>
> SEC. 303. (a) In the case of an employee within a unit with respect to which an organization of Government employees has not been accorded exclusive recognition and who is in an experiment under title I or II, any other employee shall not intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, such employee for the purpose of interfering with—
>
> (1) such employee's rights under title I to elect the time of his arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or
>
> (2) such employee's right to execute or not to execute a waiver under section 203(e).

It also provides penalties for violators which range from suspension without pay to termination of employment.

So, Mr. Chairman, it seems to me that this is, again, a false notion. We are all very much interested in individual liberties and at the same time we are interested in the rights of employees, both those who are subject to collective bargaining and those who are not. We would not do anything to interfere with that, or to hurt that. I would concur with the gentleman from Illinois that we want to make sure that there is an individual option subject to provisions of law and subject to collective bargaining agreements. So I feel that this argument attempts to divert us from what the purpose of this legislation is. The purpose of this legislation is benign, and not malevolent. We are taking into consideration a reality. What is this reality? The reality is that we have a rigid way of working from 9 a.m. to 5 p.m. But life is not quite that way. There are some people who would work better from 7 to 3. There are some people who like to be at home with their children at 3 o'clock, and yet they have to work. Here is an opportunity for the Government to provide an opportunity for them to be able to work and fashion their personal lives as they choose. There are other people who feel that after their workday has ended they should be able to apply to a Government agency for information or for relief. Because our workweek goes from Monday to Friday, and our workday goes from 9 until 5 o'clock, the people are deprived of the opportunity t approach the Government and obta the information or assistance they ne

This program is for the common g It will not be able to serve the com good as an experiment if it is constri and limited. It would be a waste o Members' time and a waste of the ernment's time. We have already the results of limited experim This legislation as written, insures that

vide, and I urge the adoption of the amendments.

I must admit, Mr. Chairman, that I am a bit frustrated at the lack of attendance at the moment, which means I shall have to wrestle with people at the door when they come rushing in for the vote. I am also frustrated, though, with the developments in this measure: Let me just sum it up this way:

I ask the Members to take a look at the original bill H.R. 9043. The title of the bill was "to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules as alternatives to present work schedules."

As a result of amendments adopted in committee, the new title of the bill is an act to be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1976."

And then in the committee section of the bill, subsection (4), it reads as follows:

. . . each agency shall establish . . .

That takes out all the testing. That takes out all of the flexibility. I wish to refer at this point to a letter from the Civil Service Commission, the pertinent parts of which read as follows:

We are firmly convinced that to make experiments mandatory in all of the 100-plus agencies of the Executive Branch would prove counterproductive . . . A mandatory program would be directly contrary to the philosophy of flexible work schedules. They should be optional, alternative means of accomplishing the work of an agency, not an arbitrary replacement of traditional work patterns. The value of such alternative work schedules to the Government can be determined only through a system of voluntary, controlled experimentation. A meaningful experiment must be centrally planned and coordinated, necessarily limited in application . . .

That is the position of the Civil Service Commission.

Mr. Chairman, these three amendments I have before the House would merely do this:

The one inserting a new section 4 would remove from the bill the requirement that each agency must establish one or more of the experimental programs. The amendment basically takes us back to the bill as originally introduced. My amendment provides for the development of this matter plan within 90 days after enactment of this bill, as originally proposed by the Civil Service Commission.

The following two amendments are conforming amendments under the flexible time title, and, therefore, I have offered them en bloc.

Frankly, Mr. Chairman, if we are to enter into this flexitime procedure on personnel, we will have to do it under a test period plan. To charge into it immediately as a mandatory item just defies all the practical rules of administration. When we think of the Federal Government, we must remember we are close to 3 million civilian Federal employees, and we are talking about a gigantic administrative responsibility. A 3-year experiment, which would, as mandated by the Civil Service Commission, be carefully controlled and carefully monitored, would give us the evidence on which we could base a permanent program established on the practical results as they have been observed. That is the spirit of the amendments.

I suggest that the statesmanlike thing to do would be to support my amendments and keep this bill as it was originally intended, an authorization for a proper procedure of testing this program.

Mr. Chairman, I yield to that great statesman, the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I appreciate the gentleman's yielding, but I wish to speak on my own time.

Mr. DERWINSKI. Mr. Chairman, I had hoped that the gentleman from New York had become convinced and that he was suddenly supporting my amendments. One can always hope.

Mr. Chairman, I yield back the balance of my time.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendments.

(Mr. SOLARZ asked and was given permission to revise and extend his remarks.)

Mr. SOLARZ. Mr. Chairman, I have been, as a colleague of the gentleman from Illinois (Mr. DERWINSKI) on two committees of this House, continually impressed by the lucidity and occasionally the loquaciousness of his views, as he has expressed them on the various bills that both of us have been called upon to consider.

However, I must say that the gentleman's comments a few minutes ago reminded me of a statement that was once made by the German philosopher, Hegel, to the effect that "if theory and fact disagree, so much the worse for the facts."

To be sure, as the gentleman pointed out in his remarks, it does say on page 16 of the bill that each Federal agency shall submit a flexitime program and establish such a program. But it also says on page 17 of the bill that if the head of any Federal agency determines that the implementation of such a program would in any way substantially impair the operations of his agency, the Civil Service Commission can then conclude that, if such a program would in any way be adverse to the public interest, the interests of the agency, or the interests of its employees, the agency is then relieved of the obligation of establishing such a program.

So it seems to me that while in theory one might argue this is a mandatory program, in point of fact it is nothing of the sort.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the bill does not in any way say what the gentleman says it does. It says, if it "would substantially disrupt the agency."

I hope that the gentleman will correct his statement.

Mr. SOLARZ. Mr. Chairman, that, I might say, is precisely the point I want to make, because if, as the bill says, the establishment of a flexitime program would not—and I quote exactly from the language of the legislation—"substantially disrupt the agency in carrying out its functions," then I see no reason why the agency should be relieved of the obligation for establishing such a program.

Mr. FRENZEL. Mr. Chairman, will the gentleman define what "substantial disruption" is?

Suppose we just disrupt the agency a little bit and cost the taxpayers just a little bit of extra money; then do they have to go ahead with the program anyway?

Mr. SOLARZ. I think that the definition of "substantial" is something which should be decided on a case-by-case basis. I have every confidence in the ability of the Civil Service Commission to make a responsible judgment on these matters, but I would submit to my colleagues on the committee that if, in fact, the establishment of a flexitime program in a particular Federal agency would not substantially impair the operations of the agency, then there is no reason why they should not be required to establish an experimental program along these lines.

Mr. Chairman, the gentleman from Illinois (Mr. DERWINSKI) also said that it would be a mistake to establish arbitrary flexitime experimental programs, but there are plenty of provisions in this legislation which make it crystal-clear that any programs that are established would not be arbitrary.

First of all, the agencies concerned would, in effect, have to conclude that the establishment of such programs would not substantially impair their operations.

Those unions which represent units within these agencies with respect to which flexitime programs might be established would have to give their consent to those programs and to those experiments. For those units with respect to which there are no collective-bargaining agents that have already been designated to represent the employees who work for the particular unit in question, those employees, according to the terms of this legislation, would be required to voluntarily waive any of the protections which they otherwise might have under existing legislation.

Therefore, Mr. Chairman, it seems to me that there are ample protections here. The agencies have to agree, the unions have to agree, and the employees have to agree. There is nothing arbitrary about this. It is a carefully planned and constructed program.

Mr. Chairman, I might say in conclusion that I think this is one of the most constructive and creative initiatives to come out of our committee in some time. I think it holds great promise for improving the productivity of the Federal civil service, for enchancing the morale of our employees, and rather than limiting this experiment to a handful of agencies, it seems to me that we ought to make it available on a broad basis throughout the Federal Government.

Mrs. BURKE of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mrs. BURKE of California asked and was given permission to revise and extend her remarks.)

a rate equal to the rate of his basic pay, for such work which is not in excess of his basic work requirement for such day. For hours worked on such a holiday in excess of his basic work requirement for such day, he is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

(e) In the case of any employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition, the foregoing subsections of this section shall not apply unless the employee waives, in a signed writing, any rights to premium pay under the provisions of law referred to in such subsections with respect to work performed while participating in an experiment under this title.

TITLE III—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF LEAVE AND RETIREMENT PROVISIONS

SEC. 301. For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under title I or II, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or portions thereof).

APPLICATION OF EXPERIMENTS IN THE CASE OF NEGOTIATED CONTRACTS

SEC. 302. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under title I or II of this Act except to the extent expressly provided under a written agreement between the agency and such organization.

(b) An agency may not participate in a flexible or compressed schedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 103 or 203 of this Act, as applicable.

PROHIBITION OF COERCION

SEC. 303. (a) In the case of an employee within a unit with respect to which an organization of Government employees has not been accorded exclusive recognition and who is in an experiment under title I or II, any other employee shall not intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, such employee for the purpose of interfering with—

(1) such employee's rights under title I to elect the time of his arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right to execute or not to execute a waiver under section 203(e).

For the purpose of the preceding sentence, the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(b) Any employee who violates the provisions of subsection (a) shall be removed from his position and funds appropriated for the position from which removed thereafter may not be used to pay for the employee. However, if the Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission. The Commission shall prescribe procedures to carry out this subsection under which an employee subject to removal or suspension shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

REPORTS

SEC. 304. Not later than 2½ years after the effective date of titles I and II of this Act, the Commission shall—

(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action should be taken based upon the results of experiments conducted under this Act, and

(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Commission shall prepare a final report with regard to experiments conducted under this Act and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

REGULATIONS

SEC. 305. The Commission shall prescribe regulations necessary for the administration of this Act.

EFFECTIVE DATE

SEC. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 90th day after—

(1) the date of the enactment of this Act, or

(2) October 1, 1976,

whichever date is later.

Mr. HENDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENTS OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer three amendments, and I ask unanimous consent that they may be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. DERWINSKI: Page 16, strike out line 16 and all that follows down through line 22 on page 17 and insert in lieu thereof the following:

"SEC. 4. The Commission shall, not later than 90 days after the effective date of this Act, establish a master plan which shall contain guidelines and criteria by which the Commission will approve and evaluate experiments to be conducted by agencies under titles I and II of this Act. Such master plan shall provide for approval of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure that adequate testing occurs of the impact of varied work schedules on—

"(1) the efficiency of Government operations;

"(2) mass transit facilities and traffic;

"(3) levels of energy consumption;

"(4) service to the public; and

"(5) increased opportunities for full-time and part-time employment."

Page 18, strike out lines 15 through 17 and insert in lieu thereof the following:

"SEC. 102. (a) Notwithstanding section 6101 of title 5, United States Code, and consistent with the master plan established under section 4 of this Act, the Commission may approve any proposal submitted by an agency for an experiment to test flexible schedules that include—".

Page 24, strike out lines 8 through 11 and insert in lieu thereof the following:

"SEC. 202. (a) Notwithstanding section 6101 of title 5, United States Code, and consistent with the master plan established under section 4 of this Act, the Commission may approve any proposal submitted by an agency for an experiment to test a 4-day workweek or other compressed schedule."

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Chairman, the series of amendments I have offered en bloc have a single purpose: to restore to this legislation its original purpose and intent.

As the bill comes from committee, it contains language which would require a compulsory program of flexible work hours and compressed workweeks for all agencies in the executive branch of the Federal Government. Such a requirement is unworkable and impractical.

The legislation which the Civil Service Commission sent to Congress in July of last year would have authorized the Commission to establish a master program plan to carefully evaluate new work schedule arrangements.

These experimental work schedules would be limited to a minimum number of agencies, but sufficient to show whether these alternative work schedules may have applicability to Government operations. The new schedules would not be imposed upon any agency, nor would they replace current schedules. They simply would become experimental alternatives to traditional work schedules.

This is what the language of my amendments would accomplish.

Flexible and compressed work schedules are a relatively new concept, and general acceptance by management would only be impeded if agencies are forced to adopt such schedules, as the reported bill requires.

Mr. Chairman, a mandatory program would be directly contrary to the philosophy of flexible work schedules. They should be optional, alternative means of accomplishing the work of an agency, and they should not be an arbitrary replacement for traditional work patterns. The value of such alternatives can be determined only through a system of voluntary, controlled experimentation.

Mr. Chairman, there is a good deal of current debate about heavy-handed Federal bureaucracies. If we are listening to the American public, we know they do not want more arbitrary and capricious Federal authority. If this legislation is not amended as I have proposed, that is exactly what will result from the bill. The legislation as reported by committee would be disruptive and erotic to the operation of the Federal ernment.

The Civil Service Commission is ing only for limited authority to co voluntary, tightly controlled e ments in rearranging work sch That is what my amendments woul

Commission shall exempt an agency from such requirements only if it finds that the conducting of such a program by the agency would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Commission shall stay the requirement under subsection (a) to implement an experimental program until the Commission has made its determination, or until 180 days after the date of filing of the request, whichever first occurs.

TITLE I—FLEXIBLE SCHEDULING OF WORK HOURS

DEFINITIONS

SEC. 101. For purposes of this title—

(1) the term "credit hours" means any hours, within a flexible schedule established under this title, which are in excess of an employee's basic work requirement which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week, which are officially ordered in advance, but does not include credit hours.

FLEXIBLE SCHEDULING EXPERIMENTS

SEC. 102. (a) Notwithstanding section 6101 of title 5, United States Code, an agency may conduct one or more experiments to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designated hours during which an employee on such a schedule may elect the time of his arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday. An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a)—

(1) any agency experiment under subsection (a) of this section may be terminated by the Commission, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being handicapped in carrying out its functions or is incurring additional costs because of such participation, he may—

(A) restrict the employees' choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 103. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 102—

(1) the head of an agency may, on request the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), (a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 106 or to the extent he is allowed to have such hours taken into account with respect to his basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because he elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized; except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which he must be present for work, plus

(ii) the number of hours during which he may elect to work credit hours or elect the time of his arrival and departure,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that he must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and 4107(e)(2) of title 38, United States Code, night differential will not be paid to any employee otherwise subject to either of such sections solely because he elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule—

(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

HOLIDAYS

SEC. 104. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if an employee on a flexible schedule under this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, he is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, one-tenth of his biweekly basic work requirement).

TIME-RECORDING DEVICES

SEC. 105. Notwithstanding section 6106 of title 5, United States Code, an agency may use recording clocks as part of its experiments under this title.

CREDIT HOURS; ACCUMULATION AND COMPENSATION

SEC. 106. (a) Subject to any limiation prescribed by the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in his biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) If an employee who was on a flexible schedule experiment is no longer subject to such an experiment, he shall be paid at his then current rate of basic pay for not more than 10 credit hours which he has accumulated if he is a full-time employee, or for not more than the number of credit hours which he has accumulated which is not in excess of one-eighth of the hours in his biweekly basic work requirement if he is a part-time employee.

TITLE II—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

DEFINITIONS

SEC. 201. For purposes of this title—

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

COMPRESSED SCHEDULE EXPERIMENTS

SEC. 202. (a) Notwithstanding section 6101 of title 5, United States Code, an agency may conduct one or more experiments to test a 4-day workweek or other compressed schedules.

(b) An agency may except from an experiment conducted under subsection (a) any employee for whom a compressed schedule would impose a personal hardship.

(c) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a), any agency experiment under subsectiton (a) may be terminated by the Commission, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 203. (a) The provisions of sections 5542(a), 5544(a), and 5550(2) of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other law, which relate to premium pay for overtime work shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall be paid after the same number of hours of work for which a full-time employee on a similar schedule would receive overtime pay.

(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of his basic pay plus premium pay at